

**Before the
Federal Communications Commission
Washington, DC**

In the Matter of)	
)	
Request for Review of the Decisions of)	
the Universal Service Administrator)	
or Waiver by)	
)	
Pinellas County Schools)	File Nos. SLD-1044716;
Largo, FL)	1043334; 171036180;
)	161050304
)	
Schools and Libraries Universal Service)	CC Docket No. 02-6
Support Mechanism)	

REQUEST FOR REVIEW AND REVERSAL OR WAIVER

Pinellas County Schools (“School District”), by its representative, hereby requests that the Commission review and reverse the Decisions of the Administrator (“USAC”) in the above-captioned matter and instruct USAC to discontinue its recovery actions against the School District. Alternatively, the School District requests that the Commission reach the same result by waiving its rules.

The specific funding requests in issue here are FY 2015 FRNs 2849807 and 2845032, FY 2016 FRN 1699122165, and FY 2017 FRN 171036180. A decision also remains pending at USAC for FY 2016 FRN 1699099236. However, USAC has already indicated the decision will be adverse to the School District because of its direct connection to the alleged FY 2015 competitive bidding violation in this matter. Accordingly, to conserve the administrative resources of every organization with an interest in these matters, the School District respectfully requests too that the Commission instruct USAC not to reject its FY 2016 appeal (FRNs 1699099236) because of its direct connection to the FY 2015 procurement in issue here.

ISSUE

The only issue is whether the School District's competitive bidding documents informed potential bidders that the School District would consider purchasing equipment equivalent to the equipment described by make and model in its RFPs. They did.

SUMMARY

To illustrate what kind of equipment it was in the market to purchase, the School District in its FY 2015 competitive bidding documents described each piece by make and model. The RFP explained that the "references [to specific equipment] are intended to establish a quality and performance standard only," and that the School District would consider purchasing equivalent equipment from other manufacturers so long as the vendor making the proposal was certified to sell and install it.

A couple of years ago, after investigating the exact same issue in connection with the exact same funding requests, USAC concluded that the School District's competitive bidding documents had not restricted bids to equipment from specific manufacturers, but rather, had welcomed bids on equivalent equipment too. Accordingly, USAC funded the FY 2015 FRNs and ultimately paid the School District's reimbursement requests for all of the equipment they covered.

Now, inexplicably, USAC wants to change its mind.

The first time the School District's FY 2015 procurement for wireless and UPS equipment caught USAC's attention was during its Selective Review of the School District's FY 2016 applications. That was because the School District had described the requested equipment by manufacturer name and model without using the words, "or equivalent," next to the descriptions. So USAC decided to investigate further, its objective being to determine whether the School District had violated program rules by informing potential bidders that it would not consider equivalent goods. Ultimately, USAC concluded that there was no violation.

At first USAC was going to deny the School District's FY 2016 requests, but after the School District pointed out to USAC that the very first section of its RFPs had made it

crystal clear to potential bidders that it would consider equivalent equipment from other manufacturers – USAC changed its mind and agreed. It found that the School District’s competitive bidding documents had not been impermissively restrictive -- the absence of the words, “or equivalent,” next to the lists of equipment notwithstanding.

No New Facts or Rules or Rule Interpretations

Since the first time that USAC considered this issue, no new facts have been brought to light. Nor have there been any changes to the applicable rules. Therefore, USAC’s decision to revisit the issue a second time, and this time to find a violation of program rules based on the exact same facts and law is clearly arbitrary and capricious.

If the Commission allows this decision to stand, USAC will assume incorrectly that it has the authority to routinely reopen and reverse matters that its has already decided reasonably once (twice? three times?) before. Exercising this authority will be an extraordinary waste of administrative time and money and result in an exorbitant, unfair burden on applicants.

If the Commission affirms that USAC actually has this authority, the program as a whole will surely suffer. Going forward there will be a Damocles Sword over the head of every school and library that has ever accepted or decides to accept E-rate support. This will roil and shrink the market for E-rate goods and services, because funding for those goods and services will be perpetually in “play.” This, in turn, will impede the deployment of broadband, especially to the schools and libraries that need it the most, completely undermining the most fundamental of all E-rate program objectives. For these reasons and also because it is clearly incorrect, USAC’s decisions should be reversed.

BACKGROUND

- **The RFPs Included Information and Instructions to Bidders Interested In Proposing Equipment Different From Equipment Described In the RFPs.**

In January 2015, the School District issued an RFP for uninterruptible power supplies and accessories (“UPS”) and another one for wireless network equipment.¹ Each solicitation began with the same “General Terms and Conditions” (“GTC”). In the very first section of the GTC, the RFP explained that references to a specific manufacturer’s products were for benchmarking purposes only, expressed the School District’s willingness to consider alternatives, and explained how to propose something different:²

Specifications in this document may reference specific manufacturers’ products and list their model or part numbers, followed by the words “or equal” or “approved brands”. Unless the words “only” or “No Substitutes” is used in place of “or equal”, *these references are intended to establish a quality and performance standard only. Anything listed, herein, of a proprietary nature is done so without express knowledge or intent to exclude other manufacturers’ products from consideration* [emphasis added].

Any item bid as an alternate which lacks sufficient descriptive literature or technical information to enable a complete comparative analysis, may prevent its consideration.

If the bidder does not clearly state in their bid proposal that an item proposed is an alternate to that specified, the bidder must furnish the specified item upon receipt of a purchase order or else be declared in breach of contract.

In section two of the RFP (“Inquiries/Information”), the RFP explained to potential bidders how to get additional information and promised to respond quickly to questions:³

“Requests for information relating to bids in process will be addressed without delay when such information has a *material* effect on the completion of your bid response.” [Emphasis in original].

¹ See Exhibit 1, RFP for UPS and Exhibit 2, RFP for wireless network equipment.

² See RFP Section 1 (h) at page 2 in Exhibits 1 and 2.

³ See RFP Section 2 at page 2 in Exhibits 1 and 2.

Therefore, if a bidder had any question about proposing equivalent products, the RFP provided an easy and fast way to get it answered.

In combination with its two RFPs, the School District posted two Form 470s.⁴ Each one included the bid number and web address for the related RFP and instructed potential bidders to go to the website for additional details.

In the “Service” field of the UPS Form 470, the School District stated that it was seeking “UPS for MDF [main distribution frame] and IDF [intermediate distribution frame] closets” and listed several Eaton UPS models.⁵ The School District also instructed interested bidders to see the RFP for full details, as the makes/models referenced were for “general outline” purposes only.⁶

In the “Service” field of the wireless network equipment solicitation, the School District stated that it was seeking “Enterprise wireless system: Juniper & Aruba or Cisco.”⁷ There too, the School District instructed interested bidders to see the RFP for full details.⁸

- **FY 2015 Contract Awards, Funding Requests, and Funding**

The School District awarded a one-year UPS contract with two, 12-month renewal options to one vendor and a multi-year contract for wireless network equipment to another one. Afterwards, the School District filed a Form 471 for UPS equipment and another one for wireless network equipment. USAC approved both applications.

- **FY 2016 Funding Requests and Funding**

Referencing its FY 2015 Form 470/RFPs and the agreements that had resulted from them, the School District applied for FY 2016 discounts on UPS equipment and wireless network equipment. After selecting these requests for selective review, USAC notified the School District of its intent to deny both of its FY 2016 requests. It’s competitive bidding

⁴ See Exhibit 3, Form 470 Number 579030001297768 (UPS), and Exhibit 4, Form 470 Number 518210001301174 (Network Equipment)

⁵ UPS Form 470 at 3 (Exhibit 3)

⁶ *Id.*

⁷ Network Equipment Form 470 at 3 (Exhibit 4).

⁸ *Id.*

documents, USAC advised the School District, were invalid because they had included the names and makes of specific manufacturers without including the words, “or equivalent” after them.

The School District replied immediately, in writing, to USAC’s reviewer, directing his attention to the GTC section of both RFPs, where each one made clear to potential bidders that the School District would accept bids on “any equal alternate properly submitted.”⁹ As a result of that letter, USAC reconsidered the issue, changed its mind, and once again approved both funding requests.

- **Selective Review of FY 2015 Funding Requests Affects FY 2016 and 2017 FRNs**

For FY 2017, the School District applied again. This time, on May 25, 2017, while its FY 2017 Form 471s were still pending and before it had invoiced USAC for any FY 2016 wireless equipment, the School District received a Selective Review Information Request (“SRIR”) from USAC. USAC wanted to see the School District’s competitive bidding documentation for a number of funding years, including, again, FY 2015. The School District provided the requested information and documentation. Because of the pending SRIR, USAC stopped processing the School District’s FY 2016 payments requests and its FY 2017 funding requests.

- **USAC Sends Notice of Intent to Rescind FY 2015 and FY 2016 FRNs for UPS and Wireless Network Equipment, to Recover Funds, and to Deny FY 2017 Funding Requests for UPS and Wireless Network Equipment.**¹⁰

Shortly thereafter and without a word about its prior conclusion to the contrary, USAC notified the School District that it had discovered a competitive bidding violation in connection with its FY 2015 UPS and network equipment solicitations, both of which, USAC noted, had resulted in multi-year contracts. For the School District, it was déjà vu.

Because of this, USAC advised the School District further, it had decided to adjust

⁹ See Exhibit 5, Correspondence from David Galvin, the School District’s Director, Networking and Telecommunications, dated October 26, 2016, to USAC’s representative, Mr. Casavant.

¹⁰ To date, the School District has not received any decisions from USAC in connection with these FY 2016 and FY 2017 FRNs, although we expect to be seeing them shortly.

the School District's FY 2015 and FY 2016 funding commitments accordingly, to seek the recovery of funds, and to deny the FY 2017 applications for UPS and wireless network equipment.¹¹ USAC's dramatic U-turn left School District staff, especially those who had been involved in USAC's first investigation, feeling completely blindsided and understandably shocked and dismayed.

The specific violation, USAC alleged (as it had alleged once before, before changing its mind) was the School District's failure to add the two words, "or equivalent," next to the equipment described by manufacturer name and model in its two RFPs: ¹²

It was determined that Application #171036180 – FRN 1799080957 will be denied because the FCC Form 470 #579030001297768 / RFP #15-205-150 that you have cited contains a particular manufacturer's name, brand, product and service but did not include the words "or equivalent" to describe the requested products and services. Since service requested here is form multi-year contract requested in FY 2016 FCC for 471 Application # 16105034 – FRN 1699122165 and FY 2015 FCC form 471 Application# 1044716 – FRN 2849807, FY 2016 FRN 1699122165 and FY 2015 FRN 2849807 will be denied and will be processed to adjust the commitment.

- **School District's Responds to USAC's Notice to Rescind, Recover, and Deny**

The School District responded, explaining to USAC, as it had explained to USAC before, that it would have been impossible for potential bidders not to know that they could propose equipment "equivalent" to equipment described by manufacturer name and model in its RFPs, because that is what the RFPs specifically said they could do. Accordingly the School District directed USAC's attention to the information and instructions in the RFP, which provided, in short and in relevant part, as follows: ¹³

- References to specific manufacturer's products are "intended to establish a quality and performance standard only," unless the words, "only" or "No Substitutes" appear after them. [They did not.]
- Anything listed by manufacturer name is done so "without...intent to exclude other manufacturers' products from consideration;"

¹¹ See Selective Review EPC notification dated July 7, 2017, Exhibit 6

¹² *Id.* The notification includes a separate, but substantively identical, paragraph for the wireless network equipment FRNs.

¹³ See Selective Review response, dated July 13, 2017, attached as Exhibit 7.

- For an alternate product to be considered, “sufficient descriptive literature or technical information” must accompany the bid “to enable a complete comparative analysis;” and
 - Bidders must “clearly state in their bid proposal that an item proposed is an alternate to that specified.”
- **USAC Issues COMADs for Both FY 2015 FRNs**

The School District received Commitment Adjustment Letters (“COMADs”) from USAC on January 10 and April 24, 2018.¹⁴ They informed the School District that USAC had decided to rescind its FY 2015 funding commitments for UPS (\$1,224,946) and wireless networking equipment (\$1,998,879) and to recover all of the FY 2015 funds that it had disbursed for UPS (\$36,537) and for wireless network equipment (\$955,913).

In its COMADs, USAC continued to insist that the School District had violated program rules by referring to requested equipment by manufacturers’ names in its Form 470s and RFPs without adding the words, “or equivalent,” after them, and that was that.

Neither COMAD mentioned, even in passing, the more intelligent, open-minded approach to the “or equivalent” issue that USAC had taken the first time it had investigated and decided it. Nor did either COMAD address any of the School District’s arguments, leading us to believe that USAC had never actually considered them and either did not know or did not care what its “left hand” had decided the year before.

• **School District Appeals USAC’s Commitment Adjustment Decisions**

In its Letters of Appeal, the School District reiterated what it had been explaining to USAC all along and which USAC had previously understood and accepted – namely, that its two Form 470s, together with the RFPs issued in conjunction with them, made clear

¹⁴ See USAC’s Commitment Adjustment Letters, Exhibit 8.

that the School District would accept and consider bids on equivalent equipment, which, in this particular regard, is all that the program's rules required.¹⁵

- **USAC Denies School District's FY 2015 Appeals For the Same Reasons As Before (For convenience, we have reproduced the relevant parts of USAC's decisions below).**¹⁶

Funding Request Number(s): 2845032
Decision on Appeal: **Denied**
Explanation:

After a thorough review USAC determined to rescind this funding commitment in full. The FCC Form 470# 518210001301174 as well as a Request for Proposal (RFP) that was issued contained references to a particular manufacturers name, brand, product or service and did not include the words or equivalent to describe the requested products or services. Specifically, the Form 470 requests, "Enterprise wireless system: Juniper & Aruba or Cisco" and does not include a statement that equivalent manufacturers would be considered. Additionally, the RFP cites specific manufacturers and does not include the necessary language to allow alternates to be considered (Please Note: pg. 15 of 35 of the RFP indicates that a bidder could be considered non-responsive if they are not an authorized reseller of Juniper, Aruba, or Cisco equipment.) Such a description ("or equivalent") will prevent the Form 470 / RFP from being construed as requiring only a specific product or service provider, which could undermine the competitive bidding process by eliminating the opportunity for the applicant to purchase an equivalent or better product that may be less expensive or to choose a less expensive service provider. Accordingly, the commitment of the FRNs will be rescinded in full and USAC will seek recovery of any improperly disbursed funds from the applicant. In your appeal, you did not demonstrate that USAC's decision was incorrect. Consequently, your appeal is denied.

FCC rules require applicants to submit a complete description of the services they seek so that it may be posted for competing service providers to evaluate and this application must describe the services that the schools and libraries seek to purchase in sufficient detail to enable potential providers to formulate bids. See Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Report and Order, 12 FCC Red 8776, 9076, and 9078-79, FCC 97-157 para. 575 (rel. May 8, 1997). Additionally, FCC rules require that, except under limited circumstances, an eligible school, library or consortium that includes an eligible school or library shall seek competitive bids for all services eligible for support and must conduct a fair and open competitive bidding process. See 41 C.F.R. sec. 54.503(a) and (b). When an applicant includes a manufacturer's name or brand for its description of requested services on the FCC Form 470, there is a risk of compromising the competitive bidding process for services requested. The FCC has clarified that, for FCC Form 470s or RFPs posted for Funding Year 2013 or thereafter, applicants must not include the manufacturer's name or brand on their

¹⁵ See the School District's Letters of Appeal, Exhibit 9 (UPS) and Exhibit 10 (wireless network equipment.)

FCC Form 470 or in their RFPs unless they also use the words "or equivalent" to describe the requested product or service. Such a description ("or equivalent") will prevent the FCC Form 470 or RFPs from being construed as requiring only a specific product or service provider, which could undermine the competitive bidding process by eliminating the opportunity for the applicant to purchase an equivalent or better product that may be less expensive or to choose a less expensive service provider. See Request for Review of a Decision of the Universal Service Administrator by Queen of Peace High School, Burbank, Illinois, Schools and Libraries Universal Service Support Mechanism, File No. SLD-667006, CC Docket No. 02-6, Order, DA 11-1991 (rel. December 7, 2011).

Funding Request Number(s): 2849807
Decision on Appeal: **Denied**
Explanation:

After a thorough review USAC determined to rescind this funding commitment in full. It was determined that FCC Form 470# 579030001297768 as well as a Request for Proposal (RFP) that was issued contained references to a particular manufacturers name, brand, product or service and did not include the words "or equivalent" to describe the requested products or services. Specifically, the Form 470 requests specific makes of equipment (for example, "5PX3000RTN") and does not include a statement that equivalent manufacturers would be considered. Additionally, the RFP cites specific manufacturers (for example, "Eaton") and does not include the necessary language to allow alternates to be considered. Such a description ("or equivalent") will prevent the Form 470 I RFP from being construed as requiring only a specific product or service provider, which could undermine the competitive bidding process by eliminating the opportunity for the applicant to purchase an equivalent or better product that may be less expensive or to choose a less expensive service provider. Accordingly, the commitment of the FRNs will be rescinded in full and USAC will seek recovery of any improperly disbursed funds from the applicant. In your appeal, you did not demonstrate that USAC's decision was incorrect. Consequently, your appeal is denied.

- **USAC Issues Revised Funding Commitment Decision Letters Denying School District's FY 2016 AND FY 2017 FRNs.**

On June 22, 2018, and June 23, 2018, the School District received Revised Funding Commitment Decision Letters informing it that USAC had denied the appeals for its FY 2016 and FY 2017 FRNs (1699122165 and 1799080957) based the same flawed reasoning.

DISCUSSION

I. USAC'S CONCLUSION THAT THE SCHOOL DISTRICT'S COMPETITIVE BIDDING DOCUMENTS DID NOT INFORM POTENTIAL BIDDERS THAT IT WOULD CONSIDER EQUIPMENT EQUIVALENT TO EQUIPMENT DESCRIBED BY MANUFACTURER NAME AND MODEL IN THOSE DOCUMENTS IS INCORRECT.

A. USAC Misstated the Applicable Rule.

USAC's conclusion that applicants automatically violate the E-rate Program's competitive bidding rules if and when they fail to add the word's, "or equivalent" next to the name of a product described by manufacturer's name in a Form 470/RFP is much too literal and cannot possibly be correct. To determine whether a Form 470/RFP, which uses a manufacturer's name and model to describe the kind of equipment that an applicant is in the market to purchase, requires a reasonable examination of the entire Form 470/RFP as a whole.

The language, "or equivalent," might be the preferred way for a Form 470/RFP to communicate to prospective bidders that the applicant will consider proposals that include alternative equipment, but is by no means the only way to do so. The English language offers a wide variety of words and phrases to choose from. We refuse to believe, as USAC apparently does, that the Commission created a rule so rigid, so black and white that, in terms of priority, it makes the use of specific words in a Form 470/RFP more important than the Commission's policy of providing funding to schools and libraries for broadband connectivity to the Internet.

The logical, common sense rule, the one that we believe the Commission actually adopted, might require slightly more time for USAC to administer, which could explain why USAC refuses to apply it. This rule does not require applicants to use any specific words or phrases to advise potential bidders of its willingness to accept bids on equipment comparable to the equipment the applicant described in its Form 470/RFP by manufacturer name, but rather, that somewhere in the Form 470/RFP the applicant has made clear its willingness to do exactly that.

B. USAC Applied the Wrong Test.

The test to determine whether an applicant has complied with the rule is not, therefore, whether or not the words “or equivalent” appear in the RFP next to the equipment described by manufacturer name. The test is whether reasonable, potential bidders, after reviewing the applicant’s competitive bidding documents, would know whether or not the applicant was willing to accept bids on equivalent equipment. The first time it considered this issue, that is the test USAC applied.

After its first investigation of the procurement in issue here a couple of years ago, USAC had decided initially to deny the School District’s FY 2016 funding requests. It was about to do so on the grounds that the procurement that had led to its FY 2015 contracts, the ones on which those requests had relied, had restricted bids to equipment identified by manufacturer name and model, which violated the program’s competitive bidding rules. When the School District received this news, it immediately directed USAC’s attention to parts of the Form 470/RFP on which, apparently, USAC had not previously focused. After reading all of the relevant provisions, USAC, to its credit, changed its mind and funded the requests.¹⁷

What USAC realized correctly the first time around, but inexplicably decided to ignore the second time, was this: After reading the School Districts Form 470/RFPs for UPS and wireless network equipment, it would have been crystal clear to any reasonable, potential bidder that the School District would consider equipment “equivalent” to the equipment described by manufacturer name and model in its Form 470/RFP.

Sure, anyone lazy who did not even bother to read the General Terms and Conditions at the very beginning of the RFP might not have realized this, but a lazy potential bidder is not a “reasonable,” potential bidder. It is that kind of bidder, however, who USAC for some reason appears intent on protecting, at the expense of schools and libraries, their students and patrons respectively, who the program was designed to and is supposed to be helping.

¹⁷ See n. 6, *supra*.

C. The School District's FY 2015 Form 470/RFP Passed the Correct Test.

The School District has explained to USAC repeatedly that its FY 2015 Form 470/RFPs described the equipment it was in the market to purchase by manufacturer name and model to benchmark for potential bidders exactly what kind and quality of equipment it was willing to consider purchasing. It was never intended to, and indeed did not, circumscribe what brands and models of equipment the School District would consider. The RFPs said so specifically. References to specific manufacturer's products, the RFPs informed potential bidders, are "intended to establish a quality and performance standard only," unless the words, "only" or "No Substitutes" appear after them,¹⁸ and, in these two RFPs, those words did not appear. What's more, the RFPs stated specifically that references to the products of specific manufacturers were made without any "intent to exclude other manufacturers' products from consideration."¹⁹ What more proof than that could USAC possibly want?

For argument's sake, however, let us assume that saying, explicitly, that the School District did not intend to exclude other manufacturers' products from consideration was not enough, standing alone, to alert a reasonable, potential bidder to the School District's willingness to consider "equivalent" equipment. If that were true, then surely the following, which appeared at the very beginning of the RFP in the General Terms and Conditions -- a section that no reasonable, potential bidder would have skipped reading -- would be enough to tip the balance: (1) the RFPs stated that for an alternate product to be considered, "sufficient descriptive literature or technical information" must accompany the bid "to enable a complete comparative analysis;" and (2) the RFPs stated that bidders must "clearly state in their bid proposal that an item proposed is an alternate to that specified."

That is not all, however. The RFP even provided very specific information about how to bid alternative equipment. First, there was the caution to prospective bidders to provide documentation to support any claims of equipment equivalency:

¹⁸ See RFPs at 3 (Exhibits 1 and 2).

¹⁹ *Id.*

Any item bid as an alternate which lacks sufficient descriptive literature or technical information to enable a complete comparative analysis, may prevent its consideration.

Plus, there was the caution to any prospective bidder interested in proposing alternative equipment to make that fact clear in its proposal:

If the bidder does not clearly state in their bid proposal that an item proposed is an alternate to that specified, the bidder must furnish the specified item upon receipt of a purchase order or else be declared in breach of contract.

And if, after reading all of the foregoing, for some reason a potential bidder still was not entirely sure that the School District would consider “equivalent” equipment, all that potential bidder had to do was ask:²⁰

“Requests for information relating to bids in process will be addressed without delay when such information has a *material* effect on the completion of your bid response.” [Emphasis in original].

It is time, we believe, for USAC to start treating the people whose job it is to respond to E-rate RFPs as adults, to assume that they will read and understand the documents that their jobs require them to read and understand, and, if there is something they are unsure about or do not understand, that they will ask.

Finally, and as USAC knows, an applicant’s Form 470 and the RFP that it publishes in conjunction with it are essentially one and the same. In the world of E-rate, an RFP cannot exist independently of a Form 470. For E-rate funding purposes, if an applicant’s Form 470 fails to alert potential bidders to the existence of an RFP, that applicant will never see a drop of funding for anything requested in it. Therefore, try as it might, USAC cannot separate the two where issues of sufficient notice are concerned. Thus on the question of whether competitive bidding documents that included requested equipment by manufacturer complied with program rules by providing notice to potential bidders that equivalent equipment would be considered, both the Form 470 and the RFP must be examined together.

²⁰ See RFP Section 2 at page 2 in Exhibits 1 and 2. (See notes 3 and 4, *supra*).

Here, as required, each of the School District's Form 470s incorporated its corresponding RFP by reference. Each one indicated that an RFP was available, provided the bid number and web address for the solicitation, and, next to equipment listed by manufacturer name, instructed interested bidders to see the RFP for full details.

It is evident, therefore, that the terms of the RFPs, together with the information provided on the Form 470s, made it copiously clear to reasonable, potential bidders that the School District would consider equivalent makes and models of equipment. Accordingly and contrary to USAC's decisions, the School District's FY 2015 procurement for UPS and wireless network equipment did not violate any of the program's competitive bidding rules.

D. USAC's Wireless Network Equipment Decision Cited One of the RFPs Administrative Requirements Out of Context and Misconstrued It.

One of the administrative provisions in the School District's wireless network equipment RFP explained to bidders offering any of the equipment described in the RFP by manufacturer name that they "should" provide proof of their status as an authorized reseller of that equipment or else their bids "could be" considered non-responsive.²¹ USAC cited this in support of its decision, and, out of context and standing alone, it might appear to do so, but in reality, it definitely does not.

First off, it was an administrative request and not a requirement, but more importantly, its purpose was to help get the message across to prospective bidders that they must be qualified to sell, install, and support whatever it is that they proposed to sell. It was not intended to, and did not, limit the bidding to vendors of only certain manufacturers' products. Since the RFP had used the names of specific manufacturers to benchmark the kind of equipment that the School District was in the market to buy and therefore reasonably expected to receive bids on that equipment, it made perfect sense to use those particular names in that particular context too.

The School District could not add the names of "other" manufacturers to the list, because it had no idea whether anyone would even bid alternative equipment, let alone who

²¹ See Exhibit 2 (wireless network equipment RFP), at the bottom of p.15.

the manufacturers of that equipment might be. As the School District has explained to USAC on more than one occasion, bidders would have been asked to provide this kind of documentation irrespective of the equipment proposed.

And again, if a reasonable, prospective bidder had any concern about how this provision affected the willingness of the School District to consider “equivalent” equipment, that vendor could have and should have asked the School District for a clarification. Had anyone asked, the School District would have done so quickly, exactly as it promised it would elsewhere in the RFP.

II. IF, AS USAC CONTENDS, THE SCHOOL DISTRICT’S BID DID NOT COMPLY WITH THE PROGRAM’S COMPETITIVE BIDDING RULES, THEN THE CIRCUMSTANCES WARRANT THAT THE RULES BE WAIVED.

Generally, the Commission’s rules may be waived if good cause is shown.²² If the Commission agrees with USAC that the School District’s Form 470s/RFPs violated the program’s competitive bidding rules, then there are numerous, very good reasons for waiving them in these circumstances. Accordingly, in the alternative, the School District respectfully requests a waiver of whatever rules may apply.

A. The School District Did Not Intend to Restrict Bidding

There was no intent to mislead vendors or to side-step a fair and open bidding process. The wording used in the School District’s RFPs is the same that has been used in all of the School District’s bids. It has been approved by the School District’s board and follows all of the School District’s purchasing standards, as well as those for the State of Florida. If the RFPs in issue here did somehow manage to limit competition for the School

²² Generally, the Commission’s rules may be waived if good cause is shown. 47 C.F.R. § 1.3. The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest. *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (*Northeast Cellular*). In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis. *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969); *Northeast Cellular*, 897 F.2d at 1166. Waiver of the Commission’s rules is appropriate only if both (i) special circumstances warrant a deviation from the general rule, and (ii) such deviation will serve the public interest. *NetworkIP, LLC v. FCC*, 548 F.3d 116, 125-128 (D.C. Cir. 2008); *Northeast Cellular*, 897 F.2d at 1166.

District's business, which we highly doubt, the result was completely unintentional, as the School District was more than willing to consider bids on any UPS or wireless network equipment, so long as it was comparable to equipment referenced in its Form 470s/RFPs.

B. The School District Conducted an Open and Fair Competitive Bidding Process and Did Not Violate Program Rules in Any Other Respect.

The School District conducted a fair and open competitive bidding process that in all respects (except as USAC is alleging here) complied with E-rate program requirements and Commission rules. It issued the RFP in accordance with state and local procurement rules. It timely posted the funding year 2015 Form 470. It waited well beyond the requisite 28 days before evaluating bids received. And it had in place a signed agreement with the selected vendor before filing the funding year 2015 application. Accordingly, USAC approved the application and disbursed the funds requested. USAC also approved the School District's FY 2016 applications.

C. Rescinding the School District's Funding Requests and Ordering it to Return Close to One Million Dollars in Funding Would Be Horribly Unfair in These Circumstances.

Especially considering the relatively minor nature of the violation, the very real debate over whether there even was a violation in the first place, and how very narrowly the rule would have to be construed in order to actually find a violation, it would be horribly unfair to tar the School District with the multi-million dollar punishment that USAC insists the rules require. Please note in this regard that USAC has more decisions coming down the pike in connection with its related FRNs for FY 2016 and 2017. If USAC does not reverse USAC's decisions or grant a waiver, the fallout from those decisions will dramatically increase the size of this already much too unfair and unwarranted punishment.

D. Rescinding the School District's Funding Requests and Ordering it to Return Close to One Million Dollars in Funding Would Be Financially Devastating and Drastically Impact the School District's Ability to Roll Out Wireless Internet Access to All of its Students.

For the School District, USAC's decisions have already resulted in extreme and unnecessary hardships. Because of this proceeding, it had to halt its wireless network

project, which is adversely impacting student achievement, as well as the performance of students during testing. To resume this project, the School District needs access to these E-rate funds. The schools in the School District desperately need this equipment. There are no words to describe the damage that would be caused by having to forfeit funding for projects already pending and having to find close to one million dollars to return to USAC for E-rate funding that the School District has already received.

E. The Equitable Principles of Collateral Estoppel Should Apply

In the courts, collateral estoppel is an efficiency rule that is meant to save judicial resources by avoiding the relitigation of issues of fact that have already been litigated. The rule is also intended to protect defendants from the inequity of having to defend the same issue repeatedly. If there ever was a time for the Commission to apply this rule, this is it.

USAC has in effect litigated this exact same issue once before and, in that case found no violation of program rules. The first time was in the context of a FY 2016 Selective Review. Here, the facts are exactly the same, the issue is exactly the same, and the parties are exactly the same.

Since that time, nothing has changed – except for the outcome. Significantly, no new facts have been brought to light. Nor have there been any changes to the applicable rules. Therefore, USAC’s decision to revisit the issue a second time, and this time to find a violation of program rules based on the exact same facts and law is clearly arbitrary and capricious and perfectly suited for the application of collateral estoppel.

There is no question that the only issue in this case has been fully litigated once before. In connection with its FY 2016 applications, USAC requested information and documentation, the School District provided it, and USAC carefully reviewed it. USAC was about to find a competitive bidding violation based on the absence of the words, “or equivalent,” in its competitive bidding documents, but after reading them more carefully at the School District suggestion, changed its mind.

The School District should not have to defend this same issue repeatedly. As the parties have litigated this issue fully once before, USAC should be estopped from relitigating it here.

F. The Winning Bids Were Cost Effective.

A waiver is further warranted in these circumstances because the winning bids were cost-effective. For example, the School District's 2015 agreement provides wireless access points for the following unit costs:

<u>Item</u>	<u>Unit Cost</u>
802.11ac CAP w/CleanAir; 3x3:2SS; AIR-CAP1702I-A-K9	\$226.80
802.11ac CAP w/Cleanair 3x4:3SS; AIR-CAP2702I-A-K9	\$336.60

These unit costs are quite reasonable for enterprise-grade wireless access points. In fact, in reviewing the pricing for all its E-rate-supported UPS and wireless network equipment, it appears that the School District's pricing is comparable to the cost paid for projects of similar scope by other applicants in Florida, regardless of manufacturer. The data simply does not support USAC's suggestion that the School District's Form 470s/RFPs might have resulted in more cost-effective contracts if only the School District had included the words "or equivalent" in its RFPs next to the names of the three manufacturers who the School District deemed automatically acceptable because of the well-accepted reputation of their equipment for quality and performance.

CONCLUSION

The School District conducted a fair and open competitive bidding process that in all respects complied with USAC's administrative requirements and FCC rules.

Therefore, for all of the above reasons, the School District respectfully requests that the Commission reverse USAC's decisions and instruct USAC to discontinue its recovery actions against the School District. Alternatively, the School District requests that the Commission reach the same result by waiving its rules.

In addition, the School District respectfully asks the Commission to direct USAC to not reject the School District's pending FY 2016 COMAD appeal (FRN 1699099236) because of its direct connection to the FY 2015 procurement in issue here.

Respectfully submitted *on behalf of*
Pinellas County Schools

By: /s/ Catherine Cruzan
Catherine Cruzan
President

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cc: David Galvin
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Pinellas County Schools^[L] Technology and Information Systems (TIS)
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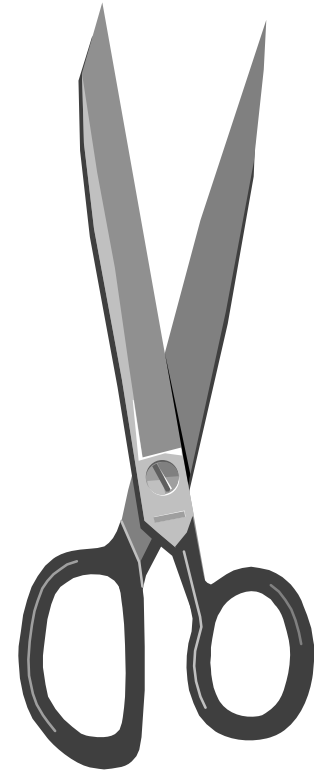
July 5, 2018

Exhibit 1



Cut along the outer border and affix this label to your sealed bid envelope to identify it as a “Sealed Bid”. Be sure to include the name of the company submitting the bid where requested.

SEALED BID • DO NOT OPEN	
SEALED BID NO.:	15-205-150
BID TITLE:	Uninterruptable Power Supplies and Accessories: Eaton
DUE DATE/TIME:	February 18, 2015 @ 3 p.m. E.T.
SUBMITTED BY:	_____ (Name of Company)
DELIVER TO:	PURCHASING DEPARTMENT School Board of Pinellas County 301 Fourth Street S.W. Largo, FL 33770-3536



Please Note:

Pinellas County Schools has partnered with Public Purchase, a web based eProcurement service. Public Purchase provides government agencies and their vendors with a comprehensive and easy to use web based eProcurement system. For our vendors, this eProcurement system provides you with automatic notification and transmittal of bid solicitations to vendors. Please visit www.publicpurchase.com to login and obtain any and all bidding documents

Once you have opened and viewed the bid document from this website you will automatically receive an e-mail notifying you when an addendum has been issued. Any such addendum will be posted on the same website listed above. However, if you obtain our bidding documents from any other source, we cannot guarantee that you will automatically receive subsequent notifications of addendums by email. In order to assure that you are automatically notified, you must visit the above website and open and view the bid document. The district will not be responsible if you fail to receive any and all addendums if you obtain the original bid document from another source.

SUBMIT BID TO: PURCHASING DEPARTMENT School Board of Pinellas County, Florida 301 – Fourth Street S.W. Largo, Florida 33770-3536		INVITATION TO BID	
BID TITLE: Uninterruptable Power Supplies and Accessories; Eaton		BID NO. 15-205-150	
F.O.B. DESTINATION POINT: Telecommunications Department School Administration Building 301 4th St S W Largo, FL. 33779		BUYER: Mark Shuman, CPPO, CPPB (727) 588-6179 ISSUE DATE: January 15, 2015	
BID DUE DATE AND TIME: February 18, 2015 @ 3 p.m. E.T.		BID OPENING ROOM: A318	

SUBMITTALS:

Certain **Submittals** are required with this bid. See the **SUBMITTALS CHECKLIST** found later in the bid document for details. Submit **Two (2) complete copies** (1 original & 1 copy) of your bid proposal. Each bid proposal should include all information and submittals requested in this bid. Incomplete bid proposals may be declared non-responsive.

USE OF FEDERAL FUNDS: If the District intends to utilize Federal funds to make purchases from this bid, one or more of the paragraphs listed below from the General Bid Terms & Conditions will be checked. Paragraphs not checked below will not apply to this bid.

☐ Paragraph 54 ☐ Paragraph 55 ☐ Paragraph 56 ☐ Paragraph 57 ☐ Paragraph 58 ☐ Paragraph 59 ☐ Paragraph 60

PURCHASING CARDS: ☐ Not applicable to this bid

District personnel may choose to use a Visa™ Purchasing Card in place of a purchase order to make purchases from this bid. Unless exception to this condition is checked below, the bidder, by submitting a bid, agrees to accept the purchasing card as an acceptable form of payment and may not add additional service fees or handling charges to purchases made with the purchasing card. Refusal to accept this condition may cause your bid to be declared non-responsive.

☐ I do not accept the above condition

PURCHASES BY OTHER PUBLIC AGENCIES (D.O.E. Regulation #6A1.012 (5)): - With the consent and agreement of the successful bidder(s), purchases may be made under this bid by other governmental agencies within the state of Florida. Such purchases shall be governed by the same terms and conditions as stated herein.

Note to Bidder:

A. A signed bid submitted to the School Board obligates the bidder to all terms, conditions and specifications stated in this bid document, unless exceptions are taken and clearly stated in the bidder's proposal.

B. Bids received after the date & time specified will not be accepted.

Delivery days after receipt of order: _____ Date Submitted: _____ Payment Terms _____

BIDDER MUST FILL IN THE INFORMATION LISTED BELOW AND SIGN WHERE INDICATED FOR BID TO BE CONSIDERED

Company Name: _____ FEIN: _____
Address: _____ Telephone: () - Ext. _____
City, State: _____ Zip: _____ FAX: () - _____

NON COLLUSION: - The bidder, by affixing its signature to this proposal, certifies that its bid is made without previous understanding, agreement, or connection with any person, firm or corporation making a bid for the same item(s), and is in all respects fair, without outside control, collusion, fraud, or otherwise illegal action.

Signature of Owner or

Authorized Officer/Agent

Typed Name of Above:

E-mail: _____

Title: _____

NO BID: I hereby submit a "no bid" for the reasons checked below:

- | | |
|---|--|
| <input type="checkbox"/> Insufficient time to respond | <input type="checkbox"/> Could not meet Insurance requirements |
| <input type="checkbox"/> Addenda were received too late to respond | <input type="checkbox"/> Could not meet bonding requirements |
| <input type="checkbox"/> Could not meet specifications | <input type="checkbox"/> We do not offer the product or service requested |
| <input type="checkbox"/> Specifications were unclear or restrictive | <input type="checkbox"/> Our schedule will not permit us to respond |
| <input type="checkbox"/> Terms & Conditions were unclear or restrictive | <input type="checkbox"/> We do not bid directly |
| <input type="checkbox"/> Keep our company on this bid list for future bids | <input type="checkbox"/> Remove our company name from this bid list for future bids |

PCS Form 3-852-A (Rev. 5/6/13)

(15-150pr956bid.doc)

Category Y

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1. PREPARATION OF BIDS:

- a) **Bidder's Liability:** Bidders are expected to examine the specifications and all special and general conditions, requirements, and instructions. Negligence on the part of the bidder to make the necessary examinations and investigations, visit appropriate site locations and become familiar with ALL locations covered under this bid, or failure to fulfill, in every detail, the requirements of the contract documents, will not be accepted as a basis for varying the requirements of the district or for paying additional compensation to the contractor. Failure to do so is at the contractor's risk. Failure to follow the instructions contained in the bid for completion of a bid response is cause for rejection of a bid.
- b) **Submittal of Bids: BIDS SHALL BE SUBMITTED IN A SEALED ENVELOPE.** The return address label provided with your bid invitation packet should be affixed to the outside of your envelope identifying it as a **sealed bid**. Any company not responding to this request with either a bid or a "NO BID" *may be removed from the active bidders list*.
- c) **Receipt of Bids:** The purchasing department is not responsible for timely delivery of the U.S. or private courier mail. The Bidder is responsible to allow adequate mailing time, including time for interoffice mail delivery, or to take appropriate alternate steps to assure that their bid is delivered to the **purchasing department** by the specified due date and time. **LATE BIDS WILL BE REJECTED!**
- d) **Minimum Required Documents:** The following documents must be returned with your bid proposal to be considered responsive:
 - i) Completed **Invitation To Bid** form with original signature. (page 1)
 - ii) Completed **Bid Proposal** form(s)
 - iii) All items checked **required** on **Submittals Checklist** form included with the bid.
- e) **Forms:** All bids must be submitted on and comply with the bid forms provided. If additional space is required, the bidder may submit an attachment which will become part of the bid response. The Invitation to Bid Form 852-A **must** be signed by the owner or authorized officer/agent of the company submitting a bid or the bid will be rejected. Telegraph, Facsimile (FAX) or e-mail bids will not be considered a sealed bid.
- f) **Quoted Prices:** Prices are to be submitted in accordance with the quantities required, which appear in the bid invitation. Unit prices will prevail over extended totals whenever the extended amount is in conflict with the estimated quantity (x) the unit price. When a total group price of two or more distinct items is requested, the purchasing department reserves the right to verify mathematical extensions and totals, correct extensions and totals if necessary and recommend an award based upon the overall group total.
- g) **Freight Terms:** All items are to be bid **FOB destination** with all transportation charges prepaid and included in the bid prices and title transferring to the district at the time of delivery, unless otherwise stated in bid invitation. Any exceptions to these freight terms taken by the bidder must be clearly stated in the bidder's proposal. The purchasing department will evaluate any such exceptions and determine if the exception constitutes grounds for rejection of the bidder's proposal.
- h) **Item Specifications:** Specifications in this document may reference specific manufacturers' products and list their

model or part numbers, followed by the words "or equal" or "approved brands". Unless the words "only" or "No Substitutes" is used in place of "or equal", these references are intended to establish a quality and performance standard only. Anything listed, herein, of a proprietary nature is done so without express knowledge or intent to exclude other manufacturers' products from consideration.

- i) Any item bid as an alternate which lacks sufficient descriptive literature or technical information to enable a complete comparative analysis, may prevent its consideration.
 - ii) If the bidder does not clearly state in their bid proposal that an item proposed is an alternate to that specified, the bidder must furnish the specified item upon receipt of a purchase order or else be declared in breach of contract.
- i) **Bid , Performance & Payment Security:** When bid, performance and payment securities are required, the "Required" box will be checked on the **Submittals Checklist** form included with the bid. Detailed specifications will be included in the "**Bid, Performance & Payment Security Guidelines**" section of the bid.
 - j) **Insurance Certificate:** When an insurance certificate is requested, the "Requested" box will be checked on the **Submittals Checklist** form included with the bid. Detailed specifications will be included in the "**Insurance Specifications for Contractors**" section of the bid.
 - k) **Product Certification:** When product certification is requested, the bidder must submit a signed, notarized affidavit along with their bid attesting that the item meets all specifications requested.
 - l) **Proposal Organization:** Bidders are expected to organize their bid proposals in such a manner as to facilitate the evaluation process. Bid proposals should be keyed or indexed to correspond with this bid solicitation. Responses should be correlated to the specific Submittal, Criterion, Section or Paragraph Number of the **Invitation to Bid** or **Request for Proposal** being addressed. District staff will make a reasonable effort to locate information in the bid proposals; however, failure to follow this suggested format may make location of critical submittal information difficult, possibly resulting in a loss of appropriate point credit or complete rejection of your bid proposal.

2. INQUIRIES/INFORMATION:

Any questions by prospective bidders concerning requirements of this bid should be addressed to the buyer whose name appears on the front of the **Invitation To Bid** form or to individuals specifically named in the **Special Conditions** or **Personnel Matrix** sections of the bid. The buyer will assist vendors and answer questions to the best of his or her ability. Questions of a technical nature may be referred to other individuals by the buyer for an appropriate response as deemed necessary. Requests for interpretation of the bid or additional information should be communicated to the buyer in writing no later than seven (7) working days prior to the scheduled bid opening date. Requests for information relating to bids in process will be addressed without delay when such information has a **material** effect on the completion of your bid response. Every effort will be made to supply other requested information of a less critical nature, such as, **lists of vendors solicited, prebid conference attendees, firms who have picked up plans and specifications, historical bid data or bid tabulations** within (48) hours from receipt of a request. Vendors are encouraged to visit our Web site at the address shown below

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to obtain this information, or it may be obtained in person, but we respectfully request that you notify the buyer in advance at the telephone number listed on the **Invitation to Bid** form to allow him or her ample time to compile the information for you before you arrive. If you have Internet access, the following information is available from the Web sites listed below 24 hours per day, 7 days per week.. :

Go to www.publicpurchase.com to obtain:

- A copy of a bid packet for a contract or project currently out for bid and any associated addenda (This is a secured site and you must be registered in Public Purchase to access these documents.)

Go to www.pcsb.org/purch to obtain:

- The last price paid for an item(s) currently out for bid (when applicable);
- Historical bid results;
- A listing of bids scheduled for award at the next School Board meeting;
- Historical bid award information;
- A copy of a W-9 Form;
- A listing of departmental personnel, with job titles, phone numbers and e-mail addresses;
- A listing of buyers and their commodity assignments.
- A listing of prebid conference attendees.

3. ACCEPTANCE AND WITHDRAWAL OF BIDS:

A bid (or amendment thereto) will not be accepted by the purchasing department after the time and date specified for the bid opening, nor may a bid (or amendment thereto) which has already been opened in public be withdrawn by the bidder for a period of sixty (60) calendar days after the bid opening date and time, unless authorized by the purchasing department. By written request to the purchasing department, the bidder may withdraw from the bid process and ask to have their sealed bid proposal returned at any time prior to the closing date and time for the receipt of bid proposals.

4. AMENDMENT & CANCELLATION:

The purchasing department reserves the right to cancel, recall and/or reissue all, or any part, of a bid or request for proposal, at any time.

5. SOLICITATION OF DISTRICT EMPLOYEES & ACCEPTANCE OF GRATUITIES:

The district expressly prohibits bidders from making any offer of employment or any other offering of value to any employee of the district who is directly or indirectly involved in the development, solicitation or evaluation and subsequent recommendation for award of this bid. The only exception to this rule would be for items which bear product logos and other forms of advertising specifically intended for promotional purposes.

6. QUALIFICATIONS OF BIDDER:

Bids will be considered only from contractors, manufacturers, authorized distributors or dealers who are normally engaged in the manufacture, sale or distribution of the materials or services requested herein. The bidder must have adequate organization, facilities, equipment and personnel to ensure prompt and efficient service to the district. The purchasing department expressly reserves the right to reject any bid proposal if it determines that the business and technical organization, equipment, financial and

other resources, or experience of the bidder, compared to work proposed, justifies such rejection.

7. CONFIDENTIALITY OF STUDENT RECORD INFORMATION:

Student record information may be provided to vendors to enable them to respond to a sealed bid invitation or to a request for proposals, or to perform under a contract already awarded to them. Vendors are hereby notified that any such student record information must be kept strictly confidential and may not be released to any other person or entity without authorization, pursuant to FS. 228.093 and Rule 6A-1.0955, FAC. Failure to comply with this directive could result in civil liability.

8. NON COLLUSION:

The bidder, by affixing its signature to this proposal, certifies that its bid is made without previous understanding, agreement, or connection with any person, firm or corporation making a bid for the same item(s), and is in all respects fair, without outside control, collusion, fraud, or otherwise illegal action.

9. CONFIDENTIALITY OF INFORMATION SUBMITTED BY BIDDER:

The district reserves the right to retain all copies of bidders' proposals and associated documentation submitted. Under Chapter 119 F.S., (Florida's Public Records Law) sealed bids or proposals received by the district pursuant to invitations to bid or requests for proposals may only be kept confidential until such time as the district provides notice of a decision or intended decision or until 30 days after the bid or proposal opening, whichever is earlier. If a vendor feels that public scrutiny of certain information contained in its bid proposal could be detrimental to its business, the vendor should identify the specific information in question and cite the governing statute and section which exempts such material from public scrutiny. A general statement to hold its entire proposal in confidence will not be honored. If the information in question does not qualify for an exemption under Chapter 119 F.S., the vendor will have the option of withdrawing its request for confidentiality or withdrawing its entire bid proposal.

10. SUBCONTRACTING:

The bidder must describe in their bid proposal, all responsibilities that the bidder anticipates assigning or subcontracting, identify all the subcontractors and also describe how the bidder will manage these subcontractors. The vendor will be held directly responsible and liable for the actions of all of its subcontractors and the actions of its subcontractors' employees.

11. INTELLECTUAL PROPERTIES:

Any discovery, invention or work product produced under this contract shall be the sole and exclusive property of the District. The bidder surrenders any and all claims of any kind, type or nature, including but not limited to patent rights, copyrights and rights in data, developed under this contract.

12. PUBLIC ENTITY CRIME & CONVICTED VENDOR LIST

Per the provisions of Florida Statute 287.133 (d), "A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier,

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subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Florida Statute 287.017 for **CATEGORY 3** for a period of 36 months from the date of being placed on the convicted vendor list”.

13. PROPOSAL PREPARATION COSTS:

The costs to develop the bid proposal are entirely the responsibility of the bidder, and shall not be charged in any manner to the district. This includes, but is not limited to, the direct cost of the bidder's personnel assigned to prepare the bidder's response to this solicitation and any out-of-pocket expenses (including, but not limited to, travel, accommodation, supplies) incurred by the bidder in preparing their bid proposal.

14. VARIANCE TO BID DOCUMENTS:

For the purpose of bid evaluation, bidders must clearly stipulate any or all variances to the bid documents or specifications, no matter how slight. If variations are not stated in the bidder's proposal, it shall be construed that the bid proposal submitted fully complies in every respect with the bid documents.

15. ADDENDA TO BIDS IN PROCESS:

Interpretations of the bid, clarification of bid specifications and requirements or changes to the bid which have a *material effect* will be documented and communicated to bidders **only by written addenda**. Verbal responses to bidders' questions do not constitute an *official response* unless documented in the form of written addenda and shall be considered **inadmissible** in bid protest proceedings. All such written addenda should be acknowledged on the **Addendum Acknowledgement Form** or by returning a copy of the signed addendum along with your bid proposal as proof of receipt. Failure to acknowledge addenda containing material changes may constitute cause for rejection of your bid proposal. Telegraph, facsimile or e-mail acknowledgements of addenda will not be accepted.

16. FLORIDA STATE CONTRACTS & FLORIDA DEPARTMENT OF EDUCATION CONTRACTS:

The purchasing department reserves the right to reject all bids and purchase from State contracts or FDOE contracts if to do so represents the best interests of the district.

17. SAFETY REQUIREMENTS:

All items bid must comply with ALL applicable safety standards set by Federal, State and local regulations, OSHA & EPA guidelines, and any other laws and regulations that govern the item(s) or services requested in this bid. All electrically operated equipment shall be UL® rated or approved. Corded equipment shall have a 3-wire grounded power cord or be double insulated and labeled as such.

18. MATERIAL SAFETY DATA SHEETS:

The district requires that two (2) copies of all applicable *Material Safety Data Sheets* be furnished upon the initial purchase of any chemical or toxic substance or equipment which uses same. One (1) copy shall accompany the product shipment and the other copy must be sent to: Pinellas County School Board Risk Management Department, Attention Safety & Loss Coordinator, 301 Fourth Street S.W., Largo, FL 33770-3536.

19. PURCHASE OF MATERIALS WITH RECYCLED CONTENT:

The purchasing department will seek alternative bids, whenever possible, for select products containing recycled materials. Such products shall be purchased as long as all specifications are met and the price does not exceed an amount 10% more than the cost of comparable products made from 100% virgin materials.

20. MANUFACTURER'S CERTIFICATION:

The purchasing department reserves the right to request a separate letter from the manufacturer of the products bid certifying that all statements and claims made in the bid proposal are true, and that all products bid meet or exceed the specifications stated in the bid documents.

21. BID QUANTITIES:

Quantities listed in the bid are estimates provided for bidder information purposes only. No guarantee is given or implied as to the exact quantities which will be purchased from this bid. The district reserves the right to increase or decrease all estimated quantities during the term of this contract or to delete any item or items as it deems appropriate, without affecting the bid pricing or the terms and conditions of the bid.

22. METHODS OF AWARD:

- a) **“By Item”**: Each item in the bid will be awarded individually to the lowest responsive and responsible bidder.
- b) **“All or None by Group, Section or Category”**: The bid will be divided into Groups, Sections or Categories of similar types of items when it would be impractical to split the award to multiple vendors. Each Group, Section or Category will be awarded to the lowest responsive and responsible bidder in total. Bidders are required to bid all items within the Group, Section or Category in order to be considered for award of that Group, Section or Category. After bids are opened and tabulated, the purchasing department reserves the right to delete one or more items within a Group, Section or Category and recommend award of the balance of the items contained within that Group, Section or Category, if it is in the best interests of the district.
- c) **“All or None”** in total.
- d) **“Primary & Secondary Suppliers or Contractors”**. The bid is awarded to both a **Primary** and a **Secondary** supplier or contractor when it is critical to have a backup source of supply, or when it is anticipated that only one vendor cannot effectively handle the volume of business generated under the contract. In the event that the **Primary** supplier or contractor cannot perform in accordance with the district's needs, the district reserves the right to use the **Secondary** supplier or contractor at its sole discretion. The **Primary** and a **Secondary** suppliers or contractors are defined as the two lowest Responsive and Responsible bidders.
- e) **“Rotating Short List of Contractors”**. The bid is awarded to a short list of Responsive and Responsible contractors, the number of which is pre-defined in the bid documents. The district will use a list of selection criteria to determine eligibility to make the short list. Project work is rotated through the short list as it is identified. Every effort is made to equitably distribute the workload amongst all contractors.

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23. DELIVERY LEAD TIME:

Each bidder shall state the number of consecutive calendar days they require after receipt of order (A.R.O.) to either complete delivery or provide the requested services in the space provided on the **Bid Proposal** form. The length of time to complete a project and deliver all of the items ordered could be a factor in awarding this bid. If a finite number of days has been specified for delivery or project completion, this deadline must be met. If a finite number of days has not been specified in the bid and the bidder has not stipulated a specific lead time for delivery in their proposal, orders will be considered delinquent after 30 days from the issue date of the purchase order.

24. TAXES:

Purchases are exempt from ALL Federal excise and most State sales tax.

25. FISCAL NON-APPROPRIATIONS CLAUSE:

In the event sufficient budgeted funds are not available for a new fiscal period, the purchasing department shall notify the vendor of such an occurrence and the contract shall terminate on the last day of the current fiscal period without penalty or expense to the district.

26. BID SAMPLES:

The bidder shall provide product samples, without charge, when requested. Criteria used to determine compliance with specifications include, but are not limited to: performance, delivery lead time, workmanship, fit and finish, compatibility with existing stock, and durability. If the sample is not consumed through testing, it will be returned to the bidder when said request is submitted with the bid. Unused samples will be returned at the bidder's risk and expense. The successful bidders' samples may be retained until all the terms of the purchase order or contract have been fulfilled. All samples are to be submitted at the place indicated in the **Special Conditions** section of the bid in accordance with the instructions outlined therein.

27. PROMPT PAYMENT DISCOUNTS:

Only prompt payment discounts offered for thirty (30) days or longer will be taken into consideration when determining low bid.

28. TIE BIDS:

Prompt payment discounts offered by bidders will be considered to break tie bids. If all other factors are equal and no prompt payment discounts are offered, preference will be given to a Florida resident vendor over an out-of-state vendor. If all vendors are Florida residents, a Pinellas County vendor will receive preference; if there is no Pinellas County vendor, preference will be given to the one closest to the Pinellas County School Administration Building, based upon mileage data provided by Mapquest.com. If all vendors reside out-of-state or all reside within Pinellas County, preference shall be given to a bid received from a business that certifies that it has implemented a drug-free workplace program in accordance with section 287.087, Florida Statutes. In order to receive preference, a signed certification of compliance must be submitted with the bid response. If all bids, or no bids include a certificate of compliance, the tie will be broken by a coin flip in the presence of witnesses.

29. ERRORS AND OMISSIONS:

In the event a clerical error or obvious omission is discovered in a bidder's proposal, either by the purchasing department or the bidder, the bidder may have the opportunity of withdrawing their

bid, provided they can produce sufficient evidence to document that the error or omission was clerical in nature and unintentional. Copies of working papers, calculations, etc., may be requested at the purchasing department's discretion, to support the validity of such a request. A bidder will not be allowed to change any information contained in its bid proposal; however, in the event of a minor omission or oversight on the part of the bidder, the purchasing department (or "designee") may request written clarification from a bidder in order to confirm the district's interpretation of the bidder's response and to preclude the rejection of its bid, either in part or in whole. The purchasing department will have the authority to weigh the severity of the infraction and determine its acceptability.

30. BASIS OF AWARD OF BIDS:

When price and specification compliance are the primary criteria for making the vendor selection, the Superintendent will recommend the lowest responsive and responsible bidder(s) to the Board. A "Responsive" Bidder is defined as one whose bid or proposal is in substantial conformance with the material requirements of the bid. A Bidder who substitutes its standard terms and conditions for the district's, or who qualifies its bid in such a manner as to nullify or limit its liability to the district will be considered non-responsive. A "Responsible" bidder is defined as one who is able to perform and satisfactorily fulfill the requirements described in the invitation to bid or request for proposal. The district may apply all, or any part of the following criteria to measure a Bidder's degree of responsibility.

- Size of firm
- District's past experience with firm
- Financial status of firm
- Capabilities of Management and Technical staff
- Labor relations
- Internal procedures of the firm
- Capacity of the firm
- *Bonding capacity*
- Reputation of firm among its peers
- Customer references
- Service after the sale
- Facilities and reserve facilities
- Location of firm
- Location of service facilities
- Professional credentials

When additional criteria other than price must be considered, a point system may be used to make the vendor selection, the Superintendent will then recommend the vendor receiving the highest point score to the Board. With Requests for Proposals, where a point and ranking system is used to make the vendor selection, the Superintendent will recommend the vendor ranked best to the Board. Slight variations or irregularities may be accepted by the Board if either is found to be in its best interest. The Superintendent (or designee) shall be solely responsible for determining the acceptability of a bid.

31. REJECTION OF BIDS:

A bid may be rejected by the purchasing department if it is non-responsive or the bidder is determined to be not responsible. A bid is not officially rejected until the School Board takes official action. . The Board reserves the right to reject any or all bids received, but not for arbitrary or capricious reasons.

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32. NOTICE OF INTENT TO AWARD BIDS:

Once bids are evaluated and a recommendation for award is received by the purchasing department, a *Notice of Intent to Award* will be posted on the purchasing department's Web site @ www.pcsb.org/purch. For those who do not have Internet access, the notice will also be posted in a conspicuous location in the purchasing office located at the Largo Administration Building, 301 4th Street S.W., Largo, Florida. The recommendation for award is not official until this notice is posted. Intent to Award Notices are normally posted on or about the Monday two weeks preceding the Board meeting when the bid is scheduled for award. See the "Key Events & Dates" section of the Special Conditions for specific information. Occasionally a supplemental posting may occur after the regular Monday posting if it is essential to include the bid on the next Board agenda. This schedule may vary depending on the Board meeting schedule from month to month. **Since this information is available as outlined above, the purchasing department will not mail or fax intent to award notices to all bidders.**

33. BID PROTEST:

If a bidder wishes to protest a bid, they must do so in strict accordance with the procedures outlined in FS 120.57(3). Copies of this procedure are included in the bid document and are also available @ www.pinellas.k12.fl.us/purch/bidaward.html or from the purchasing department at the Largo Administration Building Office, 301 4th Street S.W., Largo, FL 33770-3536. Any person who files an action protesting the bid specifications or a decision or intended decision pertaining to this bid pursuant to FS 120.57(3)(b), shall post with the purchasing department at the time of filing the formal written protest, a bond payable to the Pinellas County School District in an amount equal to 1 percent (1%) of the total estimated contract value, but not less than \$500 nor more than \$5,000, which bond shall be conditioned upon the payment of all costs which may be adjudged against the protester in the administrative hearing in which the action is brought and in any subsequent appellate court proceeding. In lieu of a bond, a cashier's check, certified bank check, bank certified company check, money order or U.S. currency will be acceptable form of security. If, after completion of the administrative hearing process and any appellate court proceedings, the district prevails, it shall recover all costs and charges which shall be included in the final order or judgment, including charges made by the Division of Administrative Hearings, but excluding attorney's fees. Upon payment of such costs and charges by the protester, the protest security shall be returned. If the protester prevails, he or she shall recover from the district all costs and charges which shall be included in the final order of judgment, excluding attorney's fees.

34. NOTIFICATION OF BID AWARD:

After the Board awards a bid, the purchasing department will issue an official award letter, a purchase order, or both, which will authorize the bidder to commence delivering materials or providing services.

35. AUTHORIZATION TO PERFORM UNDER A CONTRACT:

All purchases must be properly authorized in advance. Vendors must first obtain either a printed purchase order, a purchase order number or a purchasing card account number before commencing performance under a contract. Vendors shall take no directions to modify (increase, change, decrease, cancel) a purchase order, once issued, from anyone other than the buyer listed on the purchase order. Additional work must be authorized in advance by the buyer who will issue either a change order to the original

purchase order or a supplemental purchase order. The vendor assumes all liability for any costs or damages incurred and payment will be denied for additional work if this procedure is not strictly followed.

36. PRESS RELEASES AND PUBLICITY:

No announcements or news releases pertaining to the bidder's participation in this bid or the award of this contract shall be made by the bidder, its representatives or agents without authorization from the purchasing department.

37. POINT OF CONTACT:

The district will consider the selected bidder(s) to be the sole point of contact with regard to all contractual matters, including payment of any and all charges.

38. ASSIGNMENT OF CONTRACT:

The final contract to be awarded and any resulting amounts to be paid shall not be transferred, pledged, or assigned without the prior written approval of the district.

39. LICENSES AND PERMITS:

The vendor shall obtain and pay for all necessary licenses, permits, and related documents required to comply with the bid specifications. The vendor shall save and hold harmless the district as a result of any infraction of the aforementioned.

40. CONDITION OF ITEMS:

Unless otherwise specified in the **Special Conditions** section of the bid, all items requested must be **new**, the **latest model manufactured, first quality, carry the manufacturer's standard warranty** and be **equal to or exceed the specifications** listed in the bid. Bids for "used, remanufactured or reconditioned" equipment or "blem or seconds" will not be considered unless specifically requested in the bid documents.

41. INSPECTION:

The district reserves the right to have inspectors on the premises of the bidders or manufacturers at any time during the manufacturing or assembly process to verify compliance with bid specifications.

42. PACKAGING:

All products require adequate packaging to protect them from damage in transit. Packaging must fully cover and protect merchandise. Vendors must fully comply with all special packaging requirements, if and when specified in the bid document. When corrugated carton packaging is specified, poly wrap or blanket wrap will not be acceptable. Bidders are requested to provide products with environmentally safe packaging if at all possible. The district assumes no responsibility for damage of any kind incurred while the items are in transit. Bidders may adjust unit packaging up or down only when attempting to reach the next standard unit pack. Otherwise, only exact quantities requested will be accepted and no overages will be allowed.

43. PATENTS AND COPYRIGHTS:

The bidder agrees to indemnify and save harmless the Board, its officers, agents and employees, from and against any and all claims and liabilities of any nature or kind, including without limitation attorneys' fees and costs, for use of any copyrighted or non-copyrighted materials, secret process, patented or unpatented inventions, articles or appliances, furnished or used in

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performance of the contract for which the contractor is not the patentee, assignee or licensee.

44. INDEMNIFICATION/HOLD HARMLESS AGREEMENT:

Awarded bidders/bidders shall, in addition to any other obligation to indemnify The School Board of Pinellas County, Florida, and to the fullest extent permitted by law, protect, defend, indemnify and hold harmless the Board, its agents, officers, elected officials and employees from and against all claims, actions, liabilities, losses (including economic losses), costs arising out of any actual or alleged:

1. Bodily injury, sickness, disease or death, or injury to or destruction of tangible property including the loss of use resulting therefrom, or any other damage or loss arising out of, or claimed to have resulted in whole or in part from any actual or alleged act or omission of the contractor, subcontractor, anyone directly or indirectly employed by any of them, of anyone for whose acts any of them may be liable in the performance of the work; or
2. Violation of law, statute, ordinance, governmental administrative order, rule or regulation by contractor in the performance of the work; or
3. Liens, claims or actions made by the contractor or any subcontractor or other party performing the work.

The indemnification obligations hereunder shall not be affected by any limitation on the amount, type of damages, compensation or benefits payable by or for the contractor of any subcontractor under workers' compensation acts; disability benefit acts; other employee benefit acts or any statutory bar. The bidder will carry comprehensive general liability insurance, including contractual and product liability coverage, with minimum limits acceptable to the Board, and will, at the request of the Board, supply certificates evidencing such coverage.

This article will survive the termination of the Contract.

45. STANDARDS OF CONDUCT

Vendors awarded a contract will be held to the same standards of conduct as employees of the school district while conducting business with the district. These standards, as defined in School Board policies, will apply not only to employees of the vendor, but also to the employees of its subcontractors.

46. ITEM SUBSTITUTIONS & DISCONTINUATIONS:

Under no circumstances may a vendor substitute a different product for any item they were awarded from this bid without prior approval from the purchasing department. In the event an awarded item is discontinued by the manufacturer or the vendor no longer offers the item in their product line during the term of this bid, the vendor **must** provide an acceptable substitute item at a mutually acceptable negotiated price, or risk being found in default. The vendor must file a written request with the purchasing department and be granted approval to substitute, in writing, before any substitution may be made. Requests to substitute should be accompanied by complete detailed, technical specifications for the proposed substitute item, and a sample, if requested. The district reserves the right to purchase on the open market while negotiations are being conducted.

47. RECEIPT OF MERCHANDISE & DELIVERY NOTIFICATION:

The purchaser reserves the right to reject any and all materials or products delivered which, in its opinion, do not comply with the bid specifications, within 5 calendar days of receipt. All materials or

products rejected by the purchaser shall be promptly removed and replaced by the vendor at no charge. All shipments are to be off-loaded from the delivery vehicle to the loading dock or brought inside the building if the facility has no loading dock. The exception will be for materials obviously intended for outdoor use. All shipments must be made by door-to-door rail freight or motor truck line. There are no rail sidings at any of our locations. Deliveries shall be made between the hours of 8:00 a.m. and 2:30 p.m., Monday through Friday, excluding holidays.

Exceptions to this schedule will be stated in the **Special Conditions** or on the purchase order. For shipments which may require the assistance of district personnel to off-load merchandise, or when the purchase order specifies vendor installation, the person to whose attention the items are being shipped should be notified a minimum of forty-eight (48) hours prior to delivery to allow sufficient time to prepare the area. Telephone numbers are included on all purchase orders directly below the *Ship-To Destination* address for this purpose.

48. EQUIPMENT DEAD ON ARRIVAL (D.O.A.):

Any product shipped which arrives inoperable or ceases to function within seven (7) business days of the initial installation shall be considered D.O.A. and shall be replaced by the vendor with a new product identical to the one ordered within 30 days of notification.

49. RETURNED MERCHANDISE:

All merchandise returned for any reason other than vendor error, vendor misrepresentation of product capabilities, or product defects may be subject to no more than a 15% restocking fee and return freight charges, negotiable between the district and the vendor. It is understood that merchandise should be returned in the original factory sealed carton whenever possible. The vendor shall provide a return merchandise authorization (RMA) without requiring a purchase order or credit card. The vendor shall ship replacement merchandise prior to receipt of returned merchandise, if applicable.

50. INVOICES AND PAYMENT TERMS:

All invoices, packing lists, and correspondence should reference our purchase order number. Unless otherwise stated in the **Special Conditions**, payment will only be made after the merchandise or services have been:

- Received complete or substantially complete;
- Inspected and found to comply with all specifications and be free of damage or defect;
- Properly invoiced.

To ensure timely payment, all original invoices should be submitted to the *Accounts Payable Department, Pinellas County School Board, PO Box 2942, Largo, FL., 33779-2942*. A minimum of **thirty (30)** days is required for payment. Photocopies of original invoices may be sent to other district personnel if requested, but the original copies must be sent to the Accounts Payable Department. Only the Accounts Payable Department may direct you otherwise. Failure to follow this procedure may result in payment delays. Occasionally a school may issue its own internal purchase order. Invoices associated with a **SCHOOL** purchase order should be submitted directly to the school for payment. **Do not send invoices associated with school purchase orders to the Accounts Payable Department.**

51. BREACH OF CONTRACT AND TERMINATION FOR CAUSE:

The District reserves the right to terminate this contract for cause which shall include without limitation the failure of the vendor to

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comply with any provision of this contract. Prior to the district terminating a contract, the Director of Purchasing will initiate an internal review of the case in which the vendor may be invited to participate. If after examining the facts surrounding the case, it is determined that sufficient grounds exist to declare the vendor in default, the Superintendent (or designee) shall provide the vendor written notice of default and termination, making specific reference to the provision(s) that gave rise to the breach. If the nature and scope of the breach would allow for a cure within 10 days, the notice shall inform the vendor of its right to cure the default within the ten (10) days following receipt of the notice. If the breach is not cured within said 10 day period, the Superintendent (or "designee") shall serve a written notice of termination on the vendor, which shall become effective upon the vendor's receipt of such notice. The failure of either party to exercise its rights shall not be considered a waiver of such rights in the event of any further breach or non-compliance. In the case of termination, only the portion of the contract satisfactorily performed before the date of termination will be due and payable to the vendor. If bid performance security was required with the bid, the district may elect to execute the performance security as liquidated damages. If bid performance security was not required, the bidder shall pay to the district, as liquidated damages, an amount equal to 5% of the total estimated value of the item(s) in question or \$25, whichever amount is larger. If the bid pricing was expressed as a lump sum amount, then the amount due will be 5% of the remaining value of the contract. A vendor who fails to pay said liquidated damages within fifteen (15) days after notification that liquidated damages are due, shall lose eligibility to transact business with the district for a period of not less than one (1) year, but no more than two (2) years after the date of the default. Thereafter, the bidder may request to be reinstated to the active bidders list. Either party may terminate the contractual relationship between them, including the obligation for payments for goods or services not yet delivered, without cause by sending ninety (90) days written notice to the other party.

52. RENEWAL OF BIDS:

Unless otherwise specified in the **Special Conditions** section, bids may be renewed for one (1) term equal to the original bid term, or for two (2) successive one (1) year periods, whichever is greater, under similar terms, conditions and specifications as the original bid.

53. ACCESS TO RECORDS:

The District, a Federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives shall have access to any books, documents, papers, and records of the bidder, contractor or subcontractor which are directly pertinent to this specific contract for the purpose of making audit, examination, excerpts, and transcriptions.

54. EQUAL EMPLOYMENT OPPORTUNITY (34 CFR 80.36(i)(3)):

All vendors, contractors and subcontractors must comply with Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 CFR chapter 60). (Applies to all construction contracts awarded in excess of \$10,000 by the district and their contractors or subgrantees). (Applies only if checked on **Invitation to Bid** form, page 1).

55. COPELAND "ANTI-KICKBACK" ACT (34 CFR 80.36(i)(4)):
All vendors, contractors and subcontractors must comply with the Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR part 3). (Applies to all contracts and subgrants for construction or repair). (Applies only if checked on **Invitation to Bid** form, page 1).

56. DAVIS-BACON ACT (34 CFR 80.36(i)(5)):

All vendors, contractors and subcontractors must comply with the Davis-Bacon Act (40 U.S.C. 276a-7) as supplemented by Department of Labor regulations (29 CFR part 5). (Construction contracts in excess of \$2000 awarded by grantees and subgrantees when required by Federal grant program legislation). (Applies to construction contracts in excess of \$2000 awarded by the district and subgrantees when required by Federal grant program legislation). (Applies only if checked on **Invitation to Bid** form, page 1).

57. CONTRACT WORK HOURS & SAFETY STANDARDS ACT (34 CFR 80.36(i)(6)):

All vendors, contractors and subcontractors must comply with sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR part 5). (Applies to all construction contracts awarded by the district and subgrantees in excess of \$2000, and in excess of \$2500 for other contracts which involve the employment of mechanics or laborers). (Applies only if checked on **Invitation to Bid** form, page 1).

58. RECORDS RETENTION (34 CFR 80.36(i)(11)):

All vendors, contractors and subcontractors must retain all records pertaining to this contract for three years after the District makes final payments and all other pending matters are closed. (Applies only if checked on **Invitation to Bid** form, page 1)

59. CLEAN AIR ACT (34 CFR 80.36(i)(12)):

All vendors, contractors and subcontractors must comply with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15). (Applies to contracts, subcontracts, and subgrants of amounts in excess of \$100,000). (Applies only if checked on **Invitation to Bid** form, page 1).

60. ENERGY EFFICIENCY (34 CFR 80.36(i)(13)):

All vendors, contractors and subcontractors must comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871). (Applies only if checked on **Invitation to Bid** form, page 1)

61. VARIANCE IN CONDITION:

Any and all **Special Conditions** and specifications attached hereto which vary from these **GENERAL TERMS and CONDITIONS**, shall have precedence.

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SCOPE

The purpose and intent of this invitation to bid is to select a supplier to provide and deliver Eaton Uninterruptable Power Supplies and Accessories to the Telecommunications Department located in the school district administration building, and to secure firm, net pricing for the contract period as specified herein. . Please note that this contract is being bid earlier than normal to comply with the Schools and Libraries Division E-Rate program deadlines.

CONTRACT PERIOD

The Contract Period shall commence on **September 10, 2015**, and end **September 9, 2016**. Prices and discounts shall remain firm for this period and shall include **ALL** freight and handling charges.

CONTRACT VALUE

For the purposes of calculating the amount of a protest bond, this contract is valued at approximately \$300,000.00/year, excluding renewal options. This is only an **estimate** and the actual amount could vary up or down. The district will not be held responsible if actual purchases are less than this amount.

BID CONTENT & SUBMITTAL

Two (2) complete copies (1 original & 1 copy) of the bid proposal shall be submitted by respondents. Each bid proposal shall include all information and submittals required or requested in this bid. Incomplete bid proposals may be declared non-responsive. Please refer to the Submittal Checklist on page 18 for a list of required or requested submittals.

AWARD

The bid will be awarded **All or None** to the lowest responsive and responsible bidder.

RENEWAL OPTION

By mutual consent of the School Board of Pinellas County, Florida, and the successful bidder, this contract may be renewed for **two (2) additional one (1)-year periods** as long as price increases do not exceed the rate of inflation determined by the Consumer Price Index for urban wage earners and clerical workers, U.S. city average, all items (1982-84=100), published by the U.S. Bureau of Labor Statistics or any successor or substitute index appropriately adjusted from the commencement of the initial term of the contract to commencement of each extension period. If bidding discounts from list price, discounts offered may not change.

SERVICE REQUIREMENTS

1. Replacement parts shall be made available in sufficient supply to keep equipment purchased from this bid in operational condition for a minimum of five (5) years after equipment delivery and acceptance. After expiration of any warranties and during this five (5) year period, all required parts shall be shipped within sixty (60) days after receipt of customer's purchase order.
2. If requested by the customer, the bidder must be prepared to provide a **free** demonstration of the equipment sold under this bid to acquaint the customer with its operation.

E-RATE DISCOUNT PROGRAM

The Pinellas County School Board plans on participating in the Universal Service Program, otherwise referred to as the “E-Rate Discount” created as part of the Federal Telecommunications Act of 1996, headed by the Schools and Libraries Division. This program is designed to ensure that all eligible schools and libraries in the United States have affordable access to modern telecommunications and information services. All or part of the services you provide under our contract may qualify for the E-Rate program. Your participation in this program will have an effect on this basis of the bid award.

CERTIFICATIONS

Provide the following certifications along with your bid proposal or your bid could be declared non-responsive.

1. A letter from each manufacturer certifying that the bidder is an authorized dealer for sales and warranty service for any equipment bid.

PREFERENCE TO FLORIDA BUSINESSES

Effective July 1, 2012, when a school district is required to make purchases of personal property through competitive solicitation and the lowest responsible and responsive bid, proposal or reply is by a vendor whose principal place of business is in a state or political subdivision which grants a preference by that state or political subdivision, then the school district shall award an equal preference to the lowest responsible and responsive vendor having a principal place of business within Florida. In a competitive solicitation in which the lowest bid is submitted by a vendor whose principal place of business is located outside the state, and that state does not grant a preference in competitive solicitation to vendors having a principal place of business in that state, the preference to the lowest responsible and responsive vendor having a principal place of business in this state shall be 5 percent. See Section 287.084 (1)(a), F.S.

A vendor whose principal place is outside this state must accompany any written bid, proposal or reply documents with a written opinion of an attorney at law licensed to practice law in that foreign state, as to the preferences, if any or none, granted by the law of that state to its own business entities whose principal places of business are in that foreign state in the letting of any or all public contracts. See Section 287.084 (2), F.S.

In order for your bid to be considered responsive, please utilize the form titled “Bidder’s Statement of Principal Place of Business”.

NOTE: IF YOU ARE A VENDOR WHO’S PRINCIPAL PLACE OF BUSINESS IS NOT IN THE STATE OF FLORIDA, YOU MUST COMPLETE THIS FORM INCLUDING A SIGNATURE FROM AN ATTORNEY ATTESTING TO THE STATE BIDDING PREFERENCE. FAILURE TO COMPLETE AND SIGN THIS FORM WILL CAUSE YOUR BID TO BE CONSIDERED NON-RESPONSIVE.

ADJUSTMENTS TO CONTRACT TERMS & CONDITIONS NECESSITATED BY VOLATILITY OF THE MARKETPLACE

The district may, in its sole discretion, make an equitable adjustment in the contract terms and/or pricing if pricing or availability of supply are affected by extreme and unforeseen volatility in the marketplace, that is, by circumstances that satisfy all of the following criteria:

1. The volatility is due to causes wholly beyond the vendor’s control
2. The volatility affects the marketplace or industry, not just the particular vendor’s source of supply
3. The effect on pricing or availability of supply is substantial
4. The volatility so affects the vendor that continued performance of the contract would result in substantial loss or financial hardship

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The determination as to whether a situation represents “extreme” volatility of the marketplace and/or whether the effect on pricing or availability is “substantial” shall be solely at the discretion of the district. Requests for adjustments will not be considered more than once in a 90-day period.

BACKGROUND SCREENING

As required by The Jessica Lunsford Act [s.21 of Ch.2005-28, L.O.F.], if anyone representing a vendor under contract with the school district **will have access to school grounds when students are present, have direct contact with students or have access to or control of school funds**, such personnel are required to be screened at Level 2, to include fingerprinting, statewide criminal and juvenile justice records checks through the Florida Department of Law Enforcement and federal criminal records checks through the Federal Bureau of Investigation. [s. 1012.465, Florida Statutes]

The requirements of this law must be met in order for the School Board to contract with your company. To make an appointment to be screened by Pinellas County Schools, go to:

<http://fieldprintflorida.com/>

For a full submission (fingerprinting and badge) use code FPPCSVendors. For a badge only (badge replacement) use code FPPCSBadge.

If Contractor/Vendor is awarded all or a portion of this bid, Contractor/Vendor hereby acknowledges and agrees to abide by the Florida Jessica Lunsford Act (1012.465, F.S.) and obtain, at its own cost, Level 2 clearance of all employees, agents, and subcontractors who (1) have access to school grounds when students are present, (2) have direct contact with students, on or off school grounds, or (3) have access to or control of school funds.

NON-EXCLUSIVE AGREEMENT

This bid does NOT establish an exclusive arrangement between the district and vendor. The district reserves, but is not limited to, the following rights:

- The unrestricted right to use others to perform work, provide services or deliver the same or similar products as described herein when it is to the economic benefit of the district.
- The unrestricted right to separately bid any work, products or services as described herein when it is to the economic benefit of the district.

WARRANTY

All equipment purchased from this bid shall carry the manufacturers’ standard warranty, unless otherwise specified.

HOLIDAY BREAKS

Each year, schools and administrative offices are closed for Thanksgiving, Winter and Spring break periods. Shipments cannot be accepted during these periods. These dates will vary each year depending upon our negotiated personnel calendar and when the Holidays actually fall.

Spring Break, 2015: Schools: March 30 thru April 3, 2015
Administrative Offices: March 30 thru April 3, 2015

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BUSINESS HOURS & DAYS OF OPERATION

Regular School Year

Days of operation are **Monday thru Friday** (excluding holidays) 8 a.m. to 4:30 p.m.

Warehouse receiving 7 a.m. to 2:30 p.m.

Summer

From approximately the 2nd week of June thru the 2nd week of August all schools are closed, with the exception of those that may be in summer session. Beginning the 4th week of August, schools are once again in session. For more specific information call (727) 588-6143 to confirm if a school can accept deliveries.

Days of operation are **Monday thru Thursday** as follows:

- **Administrative Facilities and Schools:** 7:30 a.m. to 5:30 p.m.
- **Walter Pownall Service Center:** 6:30 a.m. to 5 p.m. (receiving 6:30 a.m. to 4:30 p.m.)

KEY EVENTS & DATES:

- January 15, 2015 Bid notice e-mailed to prospective bidders & bidding documents posted on the www.publicpurchase.com
- February 11, 2015 Last Day to request additional information or clarification
- February 18, 2015 **Proposals due in Purchasing @ 3 p.m. E..T.** Public bid opening to follow immediately thereafter in Room A318, Purchasing Department, School Administration Building, 301 4th Street S.W., Largo, Florida.

NOTE: Please allow sufficient time if delivering proposals in person. You must present a government issued drivers' license or ID to the officer at the front desk in order to be issued a visitor's badge to access entry to the School Administration Building.
- February 18 thru February 20, 2015 Evaluate bids and make selection of contractor(s)
- February 20, 2015 Recommendation For Award Submitted to Purchasing by Telecommunications Department
- *On or About March 2, 2015 Notice of Intent to Award posted in the purchasing department and on the department's Web site @ <http://www.pinellas.k12.fl.us/purch/bidaward.html> .
- March 17, 2015 Submit Recommendation for award to School Board for approval (estimated date of School Board approval)

*If the time allotted to evaluate bids and make the selection of contractors as stated above proves to be insufficient, the posting of the Notice of Intent To Award and the Board approval date could both slip two weeks or more. Continue to monitor our website or contact the purchasing department for more specific information as to when the notice will be posted.

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ADDITIONAL QUESTIONS/CLARIFICATIONS

Additional questions or clarifications regarding this Request for Proposal shall be directed in writing to the buyer listed on page 1 of this document by the end of the day listed on the Key Events & Dates table as the “***Last Day to request additional information or clarification***”. Direct questions and clarifications to:

Mark Shuman, CPPO, CPPB
Manger, Purchasing
shumanma@pcsb.org

BID OPENING PROCEDURES

Please be aware that any meeting at which (1) there is negotiation with a vendor, (2) a vendor makes an oral presentation, or (3) a vendor answers questions, pursuant to a competitive solicitation, are closed to competitors and other members of the public. Team meetings at which negotiation strategies are discussed are likewise closed. Such meetings shall be recorded.

The School Board’s practice of reviewing and disclosing pricing and other contents of bid proposals have changed in accordance with recent changes in the law. At bid openings, district personnel will only reveal the names of the bidders, unless the bid or proposal is a competitive solicitation for construction or repairs on a building, then the name of each bidder and price submitted shall be read at a public bid opening per F.S. 255.0518. The recordings and bid proposals shall be exempt from public records requests until such time as the notice of an intended decision is published or until 30 days after opening the bids, proposals, or final replies, whichever occurs earlier.

If the School Board rejects all bids, proposals, or replies and concurrently provides notice of its intent to reissue a competitive solicitation, the recordings and any records presented at the exempt meeting remain exempt from public records requests until such time as the School Board provides notice of an intended decision concerning the reissued competitive solicitation or until the School Board withdraws the reissued competitive solicitation. A recording and any records presented at an exempt meeting are not exempt for longer than 12 months after the publication of the initial notice rejecting all bids, proposals, or replies. Section 119.071(1)(b), F.S.; and Section 286.0113, F.S.

INTEGRITY OF BID DOCUMENTS

Bidders shall use the original Bid Proposal Forms provided by the Purchasing Department and enter information only in the spaces where a response is requested. Bidders may use an attachment as an *addendum* to the Bid Proposal Form if sufficient space is not available on the original form for the bidder to enter a complete response. Any modifications or alterations to the original bid documents by the bidder, whether intentional or otherwise, will constitute grounds for rejection of a bid. Any such modifications or alterations that a bidder wishes to propose must be clearly stated in the bidder’s proposal response and presented in the form of an addendum to the original bid documents.

PUBLIC RECORD LAW

The School Board of Pinellas County, Florida ("PCSB"), is a public agency subject to Chapter 119, Florida Statutes. Effective July 1, 2013, the Florida Legislature enacted §119.0701. This statute requires that all contractors shall comply with Florida's public record laws with respect to services performed on behalf of PCSB. Specifically, the statute requires that contractors:

- i. Keep and maintain public records that ordinarily and necessarily would be required by the public agency in order to perform the service.
- ii. Provide the public with access to public records on the same terms and conditions that a public agency would provide the records and at a cost that does not exceed the cost provided by Chapter 119 of the Florida Statutes or as otherwise provided by law.
- iii. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law.
- iv. Meet all requirements for retaining public records and transfer, at no cost, to the public agency all public records in possession of the contractor upon termination of the contract and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to PCSB in a format that is compatible with the information technology systems of PCSB.

The failure of the Contractor to comply with the provisions set forth in this Article, if applicable, shall constitute a default and material breach of this Agreement, which may result in immediate termination, with no penalty to PCSB.

FILLABLE BID FORMS

For your convenience, some of the forms which must be completed and submitted along with your bid proposal will be posted along with the bid document on the district website in a protected Word file format which will enable you to type your responses on the forms. The file will be named **15-150bidforms**. Please use these forms to avoid the need to hand write information. If sufficient room has not been provided on the form to enable you to enter a complete response, please include a supplemental attachment if necessary. Please note that this file may not include all the forms that should be submitted with your bid proposal so please check the **Submittals Checklist** near the end of this document for a complete list of requested and required submittals.

BID PROPOSAL FORM

Section A: Eaton Uninterruptable Power Supplies and Accessories:

Quantities are an estimate of yearly usage and are for information purposes only. The District will not guarantee the purchase of these quantities.

The bid will be awarded for the total of the single price for each line item below:

POWER SUPPLIES:

Est. Qty.	Model	Power rating	Input Plug	Output Receptacles	Cost
20	5P750	750/600	5-15P	(8) 5-15R	#####
30	5P1000	1000/770	5-51P	(8) 5-15R	#####
75	5PX1500RTN	1440/1440	5-15P	(8) 5-15R	#####
125	5PX2200RTN	1950/1920	5-20P	(6) 5-20R	#####
5	5PX3000RTN	3000/2700	L5-30P	(6)5-20P, (1) L5-30R	#####

ACCESSORIES:

Est. Qty.	Model	Description	Cost
25	5PXEBM48RT	5PX48R/T EBM 2 U Extended battery module for Eaton 5PX 1000, 1500, 2200	#####
10	NETWORK-MS	Network Card- MS	#####
1	OPCABEL-AS400	UPS interface cable for connection of the UPS to IBM Series/AS400	#####
20	103007018-5591	2-post rail kit for 9130 rack mount, 5P 2U models and 5PX 2U & 3U	#####
GRAND TOTAL:			#####

Section B: BALANCE OF LINE DISCOUNTS: (FOR INFORMATIONAL PURPOSES ONLY)

Enter a discount off retail prices for each manufacturer listed below.

BID ITEM #	MANUFACTURER NAME	DISCOUNT OFFERED
1	Eaton: Full Line UPS Equipment	%

ADDENDUM ACKNOWLEDGEMENT FORM

ADDENDA ACKNOWLEDGMENT: The undersigned also acknowledges the receipt of the following Addenda:

<i>ADDENDUM NO.</i>	_____	DATED	_____	<i>ADDENDUM NO.</i>	_____	DATED	_____
<i>ADDENDUM NO.</i>	_____	DATED	_____	<i>ADDENDUM NO.</i>	_____	DATED	_____
<i>ADDENDUM NO.</i>	_____	DATED	_____	<i>ADDENDUM NO.</i>	_____	DATED	_____
<i>ADDENDUM NO.</i>	_____	DATED	_____	<i>ADDENDUM NO.</i>	_____	DATED	_____

BIDDER'S STATEMENT OF PRINCIPAL PLACE OF BUSINESS

To be completed by each bidder and returned with your bid in order to be considered responsive

Name of Bidder: _____

Identify state in which bidder has its principal place of business: _____

If your principal place of business is the State of Florida, you do not need to proceed any further on this form.

If outside of Florida, identify political subdivision (state, county or municipality) in which bidder has its principal place of business: _____

NOTE: Florida Statute Section 287.084(2) states that "A vendor whose principal place of business is outside this state must accompany any written bid, proposal or reply documents with a written opinion of an attorney at law licensed to practice law in that foreign state, as to the preferences, if any or none, granted by the law of that state, or political subdivision, to its own business entities whose principal places of business are in that foreign state in the letting of any or all public contracts."

LEGAL OPINION REGARDING STATE BIDDING PREFERENCES

(To be completed by the Attorney for an Out of State Vendor. Please select one)

The bidders principal place of business is in the State of _____ or in _____, a political subdivision thereof. It is my opinion that (check one):

- ☐ The laws of the state or political subdivision thereof **do not** grant a preference in the letting of any public contracts to business entities whose principal place of business are in that state or political subdivision.
- ☐ The laws of the state or political subdivision thereof **do** grant the following preference(s) in the letting of any public contracts to business entities whose principal place of business are in that state or political subdivision thereof. (Please describe preferences and provide citation to authority.

Signature of out of state bidders' attorney: _____

Printed name of out of state bidders' attorney: _____

Address of out of state bidders' attorney: _____

Telephone number of out of state bidders' attorney: _____

Email of out of state bidders' attorney: _____

Attorneys' state(s) of bar admission: _____

NOTE: IF YOU ARE A VENDOR WHO'S PRINCIPAL PLACE OF BUSINESS IS NOT IN THE STATE OF FLORIDA, YOU MUST COMPLETE THIS FORM INCLUDING A SIGNATURE FROM AN ATTORNEY ATTESTING TO THE STATE BIDDING PREFERENCE.

FAILURE TO COMPLETE AND SIGN THIS FORM WILL CAUSE YOUR BID TO BE CONSIDERED NON-RESPONSIVE.

SUBMITTALS CHECKLIST

Name of Bidder: _____

Signature of Buyer: _____

Signature of Evaluator: _____

To help ensure that you include all the submittals necessary to complete a thorough evaluation of your bid proposal, we ask that you use this checklist to make sure you have enclosed all **Required** submittals before sealing and mailing your proposal.

The list below comprises the **Required Submittals**, and they **must be** submitted at the time you submit your bid or your bid **will be** declared non-responsive. **Submit Two (2) copies of your complete proposal, 1 original and 1 copy.**

Verified by Bidder	Verified by Buyer	Verified by Evaluator	Description of Required Submittal	Page No.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Completed and signed Invitation to Bid Form 852-A.	1
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Bid Proposal Forms	15
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Completed and signed by an attorney, Bidder's Statement of Principal Place of Business	17

Items listed as **Requested** should be submitted at the time you submit your bid to facilitate the bid evaluation process, but will not be cause for declaring your bid non-responsive.

Verified by Bidder	Verified by Buyer	Verified by Evaluator	Description of Requested Submittal	Page No.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	A letter from each manufacturer certifying the bidder is an authorized dealer for sales and warranty service for any equipment bid.	10
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Completed and signed Drug Free Workplace Certification Form (optional)	19
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Completed and signed Certification Regarding Debarment Form AD-1048	20

DRUG FREE WORKPLACE CERTIFICATION FORM

In accordance with Florida Statute 287.087, preference shall be given to businesses with drug-free workplace programs. Whenever two or more bids which are equal with respect to price, quality, and service are received by the State or by any political subdivision for the procurement of commodities or contractual services, a bid received from a business that certifies that it has implemented a drug-free workplace program *shall be given preference* in the award process. Established procedures for processing tie bids will be followed if none of the tied vendors have a drug-free workplace program. In order to have a drug-free program, a business shall:

- 1) Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition.
- 2) Inform employees about the dangers of drug abuse in the workplace, the business's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations.
- 3) Give each employee engaged in providing the commodities or contractual services that are under bid a copy of the statement specified in subsection (1).
- 4) In the statement specified in subsection (1), notify the employees that, as a condition of working on the commodities or contractual services that are under bid, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to, any violation of chapter 893 or of any controlled substance law of the United States or any state, for a violation occurring in the workplace no later than five (5) days after such conviction.
- 5) Impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program if such is available in the employee's community, by any employee who is so convicted.
- 6) Make a good faith effort to continue to maintain a drug-free workplace through implementation of this section.

As the person authorized to sign the statement, I certify that this firm complies fully with the above requirements.

(vendor's signature)

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION
INELIGIBILITY AND VOLUNTARY EXCLUSION - LOWER TIER COVERED
TRANSACTIONS**

This certification is required by the regulations implementing *Executive Order 12549, Debarment and Suspension, 7 CFR Part 3017, Section 3017.510, Participants responsibilities*. The regulations were published as ***Part IV of the January 30, 1989, Federal Register (pages 4722-4733)***.

******* BEFORE COMPLETING CERTIFICATION, READ INSTRUCTIONS ON REVERSE SIDE *******

- (1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- (2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attached an explanation to this proposal.

Organization Name

PR/Award Number or Project Name

Name(s) and Title(s) of Authorized Representative(s)

Signature(s)

Date

Form AD-1048 (1/92)

INSTRUCTIONS FOR CERTIFICATION

1. By signing and submitting this form, the prospective lower tier participant is providing the certification set out on the reverse side in accordance with these instructions.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this form that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this form that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Form AD-1048 (1/92)

Executive Order 12549--Debarment and Suspension

Source: The provisions of Executive Order 12549 of Feb. 18, 1986, appear at 51 FR 6370, 3 CFR, 1986 Comp., p. 189, unless otherwise noted.

By the authority vested in me as President by the Constitution and laws of the United States of America, and in order to curb fraud, waste, and abuse in Federal programs, increase agency accountability, and ensure consistency among agency regulations concerning debarment and suspension of participants in Federal programs, it is hereby ordered that:

Section 1. (a) To the extent permitted by law and subject to the limitations in Section 1(c), Executive departments and agencies shall participate in a system for debarment and suspension from programs and activities involving Federal financial and nonfinancial assistance and benefits. Debarment or suspension of a participant in a program by one agency shall have government-wide effect.

(b) Activities covered by this Order include but are not limited to: grants, cooperative agreements, contracts of assistance, loans, and loan guarantees.

(c) This Order does not cover procurement programs and activities, direct Federal statutory entitlements or mandatory awards, direct awards to foreign governments or public international organizations, benefits to an individual as a personal entitlement, or Federal employment.

Sec. 2. To the extent permitted by law, Executive departments and agencies shall:

(a) Follow government-wide criteria and government-wide minimum due process procedures when they act to debar or suspend participants in affected programs.

(b) Send to the agency designated pursuant to Section 5 identifying information concerning debarred and suspended participants in affected programs, participants who have agreed to exclusion from participation, and participants declared ineligible under applicable law, including Executive Orders. This information shall be included in the list to be maintained pursuant to Section 5.

(c) Not allow a party to participate in any affected program if any Executive department or agency has debarred, suspended, or otherwise excluded (to the extent specified in the exclusion agreement) that party from participation in an affected program. An agency may grant an exception permitting a debarred, suspended, or excluded party to participate in a particular transaction upon a written determination by the agency head or authorized designee stating the reason(s) for deviating from this Presidential policy. However, I intend that exceptions to this policy should be granted only infrequently.

Sec. 3. Executive departments and agencies shall issue regulations governing their implementation of this Order that shall be consistent with the guidelines issued under Section 6. Proposed regulations shall be submitted to the Office of Management and Budget for review within four months of the date of the guidelines issued under Section 6. The Director of the Office of Management and Budget may return for reconsideration proposed regulations that the Director believes are inconsistent with the guidelines. Final regulations shall be published within twelve months of the date of the guidelines.

Sec. 4. There is hereby constituted the Interagency Committee on Debarment and Suspension, which shall monitor implementation of this Order. The Committee shall consist of representatives of agencies designated by the Director of the Office of Management and Budget.

Sec. 5. The Director of the Office of Management and Budget shall designate a Federal agency to perform the following functions: maintain a current list of all individuals and organizations excluded from program participation under this Order, periodically distribute the list to Federal agencies, and study the feasibility of automating the list; coordinate with the lead agency responsible for government-wide debarment and suspension of contractors; chair the Interagency Committee established by Section 4; and report periodically to the Director on implementation of this Order, with the first report due within two years of the date of the Order.

Sec. 6. The Director of the Office of Management and Budget is authorized to issue guidelines to Executive departments and agencies that govern which programs and activities are covered by this Order, prescribe government-wide criteria and government-wide minimum due process procedures, and set forth other related details for the effective administration of the guidelines.

Sec. 7. The Director of the Office of Management and Budget shall report to the President within three years of the date of this Order on Federal agency compliance with the Order, including the number of exceptions made under Section 2(c), and shall make recommendations as are appropriate further to curb fraud, waste, and abuse.

Pinellas County District Schools

Bid Protest Procedure

A bidder who wishes to file a protest pertaining to a bid must file such notice in accordance with procedures prescribed by 120.57(3) FS enumerated below. For bids solicited by the purchasing department, the notice must be filed with the director of purchasing. For bids solicited by the facilities department, the notice must be filed with the director of facilities.

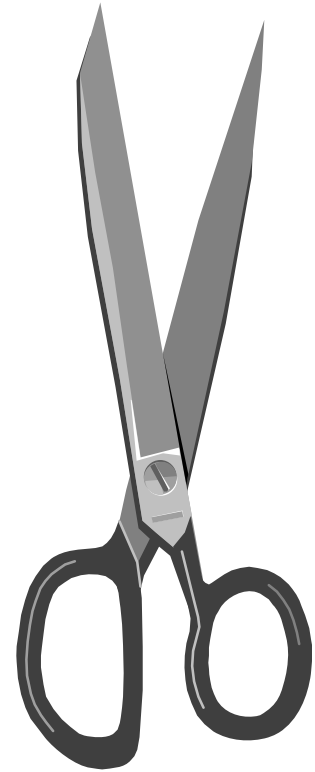
1. Any person who is adversely affected by the district decision or intended decision shall file with the director of purchasing or director of facilities a notice of protest in writing within 72 hours after the posting of the bid tabulation or after receipt of the notice of the district decision or intended decision and shall file a formal written protest within 10 days after filing the notice of protest. With respect to a protest of the specifications contained in an invitation to bid or in a request for proposals, the notice of protest shall be filed in writing within 72 hours after the receipt of notice of the project plans and specifications or intended project plans and specifications in an invitation to bid or request for proposals, and the formal written protest shall be filed within 10 days after the date the notice of protest is filed. Failure to file a notice of protest or failure to file a formal written protest shall constitute a waiver of proceedings under this chapter. The formal written protest shall state with particularity the facts and law upon which the protest is based. Saturdays, Sundays, and legal holidays shall be excluded in the computation of the 72-hour time periods provided by this paragraph.
2. Any person who files an action protesting a decision or intended decision pertaining to a bid pursuant to FS 120.57(3)(b), shall post at the time of filing the formal written protest, a bond payable to the Pinellas County School District in an amount equal to 1 percent (1%) of the total estimated contract value, but not less than \$500 nor more than \$5,000, which bond shall be conditioned upon the payment of all costs which may be adjudged against the protester in the administrative hearing in which the action is brought and in any subsequent appellate court proceeding. In lieu of a bond, a cashier's check, certified bank check, bank certified company check, money order or U.S. currency will be acceptable form of security. If, after completion of the administrative hearing process and any appellate court proceedings, the district prevails, it shall recover all costs and charges which shall be included in the final order or judgment, including charges made by the Division of Administrative Hearings, but excluding attorney's fees. Upon payment of such costs and charges by the protester, the protest security shall be returned. If the protester prevails, he or she shall recover from the district all costs and charges which shall be included in the final order of judgment, excluding attorney's fees.
3. Upon receipt of the formal written protest and protest bond which has been timely filed, the district shall stop the bid solicitation process or the contract award process until the subject of the protest is resolved by final district action, unless the Superintendent sets forth in writing particular facts and circumstances which require the continuance of the bid solicitation process or the contract award process without delay in order to avoid an immediate and serious danger to the public health, safety, or welfare.
4.
 - a) The district shall provide an opportunity to resolve the protest by mutual agreement between the parties within 7 days, excluding Saturdays, Sundays, and legal holidays, after receipt of a formal written protest.
 - b) If the subject of a protest is not resolved by mutual agreement within 7 days, excluding Saturdays, Sundays, and legal holidays, after receipt of the formal written protest, and if there is no disputed issue of material fact, an informal proceeding shall be conducted pursuant to 120.57(2) FS and applicable district rules before a person whose qualifications have been prescribed by rules of the district.
 - c) If the subject of a protest is not resolved by mutual agreement within 7 days, excluding Saturdays, Sundays, and legal holidays, after receipt of the formal written protest, and if there is a disputed issue of material fact, the district shall refer the protest to the Division of Administrative Hearings for proceedings under 120.57(1) FS.
5. Upon receipt of a formal written protest referred pursuant to this subsection, the director of the Division of Administrative Hearings shall expedite the hearing and assign an administrative law judge who shall commence a hearing within 30 days after the receipt of the formal written protest by the division and enter a recommended order within 30 days after the hearing or within 30 days after receipt of the hearing transcript by the administrative law judge, whichever is later. Each party shall be allowed 10 days in which to submit written exceptions to the recommended order. A final order shall be entered by the district within 30 days of the entry of a recommended order. The provisions of this paragraph may be waived upon stipulation by all parties.
6. In a competitive-procurement protest, no submissions made after the bid or proposal opening amending or supplementing the bid or proposal shall be considered. Unless otherwise provided by statute, the burden of proof shall rest with the party protesting the proposed district action. In a competitive-procurement protest, other than a rejection of all bids, the administrative law judge shall conduct a de novo proceeding to determine whether the district's proposed action is contrary to the district's governing statutes, the district's rules or policies, or the bid or proposal specifications. The standard of proof for such proceedings shall be whether the proposed district action was clearly erroneous, contrary to competition, arbitrary, or capricious. In any bid-protest proceeding contesting an intended district action to reject all bids, the standard of review by an administrative law judge shall be whether the district's intended action is illegal, arbitrary, dishonest, or fraudulent.

Exhibit 2



Cut along the outer border and affix this label to your sealed bid envelope to identify it as a “Sealed Bid”. Be sure to include the name of the company submitting the bid where requested.

SEALED BID • DO NOT OPEN	
SEALED BID NO.:	15-205-154
BID TITLE:	Wireless Network Equipment and Installation: Juniper, Aruba and Cisco
DUE DATE/TIME:	February 20, 2015 @3 p.m. E.T.
SUBMITTED BY:	_____ (Name of Company)
DELIVER TO:	PURCHASING DEPARTMENT School Board of Pinellas County 301 Fourth Street S.W. Largo, FL 33770-3536



Please Note:

Pinellas County Schools has partnered with Public Purchase, a web based eProcurement service. Public Purchase provides government agencies and their vendors with a comprehensive and easy to use web based eProcurement system. For our vendors, this eProcurement system provides you with automatic notification and transmittal of bid solicitations to vendors. Please visit www.publicpurchase.com to login and obtain any and all bidding documents

Once you have opened and viewed the bid document from this website you will automatically receive an e-mail notifying you when an addendum has been issued. Any such addendum will be posted on the same website listed above. However, if you obtain our bidding documents from any other source, we cannot guarantee that you will automatically receive subsequent notifications of addendums by email. In order to assure that you are automatically notified, you must visit the above website and open and view the bid document. The district will not be responsible if you fail to receive any and all addendums if you obtain the original bid document from another source.

SUBMIT BID TO: PURCHASING DEPARTMENT School Board of Pinellas County, Florida 301 – Fourth Street S.W. Largo, Florida 33770-3536		INVITATION TO BID	
BID TITLE: Wireless Network Equipment and Installation; Juniper, Aruba, and Cisco		BID NO. 15-205-154	
F.O.B. DESTINATION POINT: County Wide		BUYER: Mark Shuman, CPPO, CPPB (727) 588-6179 ISSUE DATE: January 20, 2015	
BID DUE DATE AND TIME: February 20, 2015 @ 3 p.m. E.T.		BID OPENING ROOM: A318	

SUBMITTALS:

Certain **Submittals** are required with this bid. See the **SUBMITTALS CHECKLIST** found later in the bid document for details. Submit **Two (2) complete copies** (1 original & 1 copy) of your bid proposal. Each bid proposal should include all information and submittals requested in this bid. Incomplete bid proposals may be declared non-responsive.

USE OF FEDERAL FUNDS: If the District intends to utilize Federal funds to make purchases from this bid, one or more of the paragraphs listed below from the General Bid Terms & Conditions will be checked. Paragraphs not checked below will not apply to this bid.

☐ Paragraph 54 ☐ Paragraph 55 ☐ Paragraph 56 ☐ Paragraph 57 ☐ Paragraph 58 ☐ Paragraph 59 ☐ Paragraph 60

PURCHASING CARDS: ☐ Not applicable to this bid

District personnel may choose to use a Visa™ Purchasing Card in place of a purchase order to make purchases from this bid. Unless exception to this condition is checked below, the bidder, by submitting a bid, agrees to accept the purchasing card as an acceptable form of payment and may not add additional service fees or handling charges to purchases made with the purchasing card. Refusal to accept this condition may cause your bid to be declared non-responsive.

☐ I do not accept the above condition

PURCHASES BY OTHER PUBLIC AGENCIES (D.O.E. Regulation #6A1.012 (5)): - With the consent and agreement of the successful bidder(s), purchases may be made under this bid by other governmental agencies within the state of Florida. Such purchases shall be governed by the same terms and conditions as stated herein.

Note to Bidder:

A. A signed bid submitted to the School Board obligates the bidder to all terms, conditions and specifications stated in this bid document, unless exceptions are taken and clearly stated in the bidder's proposal.

B. Bids received after the date & time specified will not be accepted.

Delivery days after receipt of order: _____ Date Submitted: _____ Payment Terms _____

BIDDER MUST FILL IN THE INFORMATION LISTED BELOW AND SIGN WHERE INDICATED FOR BID TO BE CONSIDERED

Company Name: _____ FEIN: _____
Address: _____ Telephone: () - Ext. _____
City, State: _____ Zip: _____ FAX: () - _____

NON COLLUSION: - The bidder, by affixing its signature to this proposal, certifies that its bid is made without previous understanding, agreement, or connection with any person, firm or corporation making a bid for the same item(s), and is in all respects fair, without outside control, collusion, fraud, or otherwise illegal action.

Signature of Owner or Authorized Officer/Agent _____ **E-mail:** _____
Typed Name of Above: _____ **Title:** _____

NO BID: I hereby submit a "no bid" for the reasons checked below:

- | | |
|--|---|
| <input type="checkbox"/> Insufficient time to respond | <input type="checkbox"/> Could not meet Insurance requirements |
| <input type="checkbox"/> Addenda were received too late to respond | <input type="checkbox"/> Could not meet bonding requirements |
| <input type="checkbox"/> Could not meet specifications | <input type="checkbox"/> We do not offer the product or service requested |
| <input type="checkbox"/> Specifications were unclear or restrictive | <input type="checkbox"/> Our schedule will not permit us to respond |
| <input type="checkbox"/> Terms & Conditions were unclear or restrictive | <input type="checkbox"/> We do not bid directly |
| <input type="checkbox"/> Keep our company on this bid list for future bids | <input type="checkbox"/> Remove our company name from this bid list for future bids |

PCS Form 3-852-A (Rev. 5/6/13)

(15-154pr327bid.doc)

Category Y

GENERAL TERMS & CONDITIONS

School Board Adopted 12/08/09
Revised 3/20/12 and 7/24/12

1. PREPARATION OF BIDS:

- a) **Bidder's Liability:** Bidders are expected to examine the specifications and all special and general conditions, requirements, and instructions. Negligence on the part of the bidder to make the necessary examinations and investigations, visit appropriate site locations and become familiar with ALL locations covered under this bid, or failure to fulfill, in every detail, the requirements of the contract documents, will not be accepted as a basis for varying the requirements of the district or for paying additional compensation to the contractor. Failure to do so is at the contractor's risk. Failure to follow the instructions contained in the bid for completion of a bid response is cause for rejection of a bid.
- b) **Submittal of Bids: BIDS SHALL BE SUBMITTED IN A SEALED ENVELOPE.** The return address label provided with your bid invitation packet should be affixed to the outside of your envelope identifying it as a **sealed bid**. Any company not responding to this request with either a bid or a "NO BID" *may be removed from the active bidders list*.
- c) **Receipt of Bids:** The purchasing department is not responsible for timely delivery of the U.S. or private courier mail. The Bidder is responsible to allow adequate mailing time, including time for interoffice mail delivery, or to take appropriate alternate steps to assure that their bid is delivered to the **purchasing department** by the specified due date and time. **LATE BIDS WILL BE REJECTED!**
- d) **Minimum Required Documents:** The following documents must be returned with your bid proposal to be considered responsive:
 - i) Completed **Invitation To Bid** form with original signature. (page 1)
 - ii) Completed **Bid Proposal** form(s)
 - iii) All items checked **required** on **Submittals Checklist** form included with the bid.
- e) **Forms:** All bids must be submitted on and comply with the bid forms provided. If additional space is required, the bidder may submit an attachment which will become part of the bid response. The Invitation to Bid Form 852-A **must** be signed by the owner or authorized officer/agent of the company submitting a bid or the bid will be rejected. Telegraph, Facsimile (FAX) or e-mail bids will not be considered a sealed bid.
- f) **Quoted Prices:** Prices are to be submitted in accordance with the quantities required, which appear in the bid invitation. Unit prices will prevail over extended totals whenever the extended amount is in conflict with the estimated quantity (x) the unit price. When a total group price of two or more distinct items is requested, the purchasing department reserves the right to verify mathematical extensions and totals, correct extensions and totals if necessary and recommend an award based upon the overall group total.
- g) **Freight Terms:** All items are to be bid **FOB destination** with all transportation charges prepaid and included in the bid prices and title transferring to the district at the time of delivery, unless otherwise stated in bid invitation. Any exceptions to these freight terms taken by the bidder must be clearly stated in the bidder's proposal. The purchasing department will evaluate any such exceptions and determine if the exception constitutes grounds for rejection of the bidder's proposal.
- h) **Item Specifications:** Specifications in this document may reference specific manufacturers' products and list their

model or part numbers, followed by the words "or equal" or "approved brands". Unless the words "only" or "No Substitutes" is used in place of "or equal", these references are intended to establish a quality and performance standard only. Anything listed, herein, of a proprietary nature is done so without express knowledge or intent to exclude other manufacturers' products from consideration.

- i) Any item bid as an alternate which lacks sufficient descriptive literature or technical information to enable a complete comparative analysis, may prevent its consideration.
 - ii) If the bidder does not clearly state in their bid proposal that an item proposed is an alternate to that specified, the bidder must furnish the specified item upon receipt of a purchase order or else be declared in breach of contract.
- i) **Bid , Performance & Payment Security:** When bid, performance and payment securities are required, the "Required" box will be checked on the **Submittals Checklist** form included with the bid. Detailed specifications will be included in the "**Bid, Performance & Payment Security Guidelines**" section of the bid.
 - j) **Insurance Certificate:** When an insurance certificate is requested, the "Requested" box will be checked on the **Submittals Checklist** form included with the bid. Detailed specifications will be included in the "**Insurance Specifications for Contractors**" section of the bid.
 - k) **Product Certification:** When product certification is requested, the bidder must submit a signed, notarized affidavit along with their bid attesting that the item meets all specifications requested.
 - l) **Proposal Organization:** Bidders are expected to organize their bid proposals in such a manner as to facilitate the evaluation process. Bid proposals should be keyed or indexed to correspond with this bid solicitation. Responses should be correlated to the specific Submittal, Criterion, Section or Paragraph Number of the **Invitation to Bid** or **Request for Proposal** being addressed. District staff will make a reasonable effort to locate information in the bid proposals; however, failure to follow this suggested format may make location of critical submittal information difficult, possibly resulting in a loss of appropriate point credit or complete rejection of your bid proposal.

2. INQUIRIES/INFORMATION:

Any questions by prospective bidders concerning requirements of this bid should be addressed to the buyer whose name appears on the front of the **Invitation To Bid** form or to individuals specifically named in the **Special Conditions** or **Personnel Matrix** sections of the bid. The buyer will assist vendors and answer questions to the best of his or her ability. Questions of a technical nature may be referred to other individuals by the buyer for an appropriate response as deemed necessary. Requests for interpretation of the bid or additional information should be communicated to the buyer in writing no later than seven (7) working days prior to the scheduled bid opening date. Requests for information relating to bids in process will be addressed without delay when such information has a **material** effect on the completion of your bid response. Every effort will be made to supply other requested information of a less critical nature, such as, **lists of vendors solicited, prebid conference attendees, firms who have picked up plans and specifications, historical bid data or bid tabulations** within (48) hours from receipt of a request. Vendors are encouraged to visit our Web site at the address shown below

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to obtain this information, or it may be obtained in person, but we respectfully request that you notify the buyer in advance at the telephone number listed on the **Invitation to Bid** form to allow him or her ample time to compile the information for you before you arrive. If you have Internet access, the following information is available from the Web sites listed below 24 hours per day, 7 days per week.. :

Go to www.publicpurchase.com to obtain:

- A copy of a bid packet for a contract or project currently out for bid and any associated addenda (This is a secured site and you must be registered in Public Purchase to access these documents.)

Go to www.pcsb.org/purch to obtain:

- The last price paid for an item(s) currently out for bid (when applicable);
- Historical bid results;
- A listing of bids scheduled for award at the next School Board meeting;
- Historical bid award information;
- A copy of a W-9 Form;
- A listing of departmental personnel, with job titles, phone numbers and e-mail addresses;
- A listing of buyers and their commodity assignments.
- A listing of prebid conference attendees.

3. ACCEPTANCE AND WITHDRAWAL OF BIDS:

A bid (or amendment thereto) will not be accepted by the purchasing department after the time and date specified for the bid opening, nor may a bid (or amendment thereto) which has already been opened in public be withdrawn by the bidder for a period of sixty (60) calendar days after the bid opening date and time, unless authorized by the purchasing department. By written request to the purchasing department, the bidder may withdraw from the bid process and ask to have their sealed bid proposal returned at any time prior to the closing date and time for the receipt of bid proposals.

4. AMENDMENT & CANCELLATION:

The purchasing department reserves the right to cancel, recall and/or reissue all, or any part, of a bid or request for proposal, at any time.

5. SOLICITATION OF DISTRICT EMPLOYEES & ACCEPTANCE OF GRATUITIES:

The district expressly prohibits bidders from making any offer of employment or any other offering of value to any employee of the district who is directly or indirectly involved in the development, solicitation or evaluation and subsequent recommendation for award of this bid. The only exception to this rule would be for items which bear product logos and other forms of advertising specifically intended for promotional purposes.

6. QUALIFICATIONS OF BIDDER:

Bids will be considered only from contractors, manufacturers, authorized distributors or dealers who are normally engaged in the manufacture, sale or distribution of the materials or services requested herein. The bidder must have adequate organization, facilities, equipment and personnel to ensure prompt and efficient service to the district. The purchasing department expressly reserves the right to reject any bid proposal if it determines that the business and technical organization, equipment, financial and

other resources, or experience of the bidder, compared to work proposed, justifies such rejection.

7. CONFIDENTIALITY OF STUDENT RECORD INFORMATION:

Student record information may be provided to vendors to enable them to respond to a sealed bid invitation or to a request for proposals, or to perform under a contract already awarded to them. Vendors are hereby notified that any such student record information must be kept strictly confidential and may not be released to any other person or entity without authorization, pursuant to FS. 228.093 and Rule 6A-1.0955, FAC. Failure to comply with this directive could result in civil liability.

8. NON COLLUSION:

The bidder, by affixing its signature to this proposal, certifies that its bid is made without previous understanding, agreement, or connection with any person, firm or corporation making a bid for the same item(s), and is in all respects fair, without outside control, collusion, fraud, or otherwise illegal action.

9. CONFIDENTIALITY OF INFORMATION SUBMITTED BY BIDDER:

The district reserves the right to retain all copies of bidders' proposals and associated documentation submitted. Under Chapter 119 F.S., (Florida's Public Records Law) sealed bids or proposals received by the district pursuant to invitations to bid or requests for proposals may only be kept confidential until such time as the district provides notice of a decision or intended decision or until 30 days after the bid or proposal opening, whichever is earlier. If a vendor feels that public scrutiny of certain information contained in its bid proposal could be detrimental to its business, the vendor should identify the specific information in question and cite the governing statute and section which exempts such material from public scrutiny. A general statement to hold its entire proposal in confidence will not be honored. If the information in question does not qualify for an exemption under Chapter 119 F.S., the vendor will have the option of withdrawing its request for confidentiality or withdrawing its entire bid proposal.

10. SUBCONTRACTING:

The bidder must describe in their bid proposal, all responsibilities that the bidder anticipates assigning or subcontracting, identify all the subcontractors and also describe how the bidder will manage these subcontractors. The vendor will be held directly responsible and liable for the actions of all of its subcontractors and the actions of its subcontractors' employees.

11. INTELLECTUAL PROPERTIES:

Any discovery, invention or work product produced under this contract shall be the sole and exclusive property of the District. The bidder surrenders any and all claims of any kind, type or nature, including but not limited to patent rights, copyrights and rights in data, developed under this contract.

12. PUBLIC ENTITY CRIME & CONVICTED VENDOR LIST

Per the provisions of Florida Statute 287.133 (d), "A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier,

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subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Florida Statute 287.017 for **CATEGORY 3** for a period of 36 months from the date of being placed on the convicted vendor list”.

13. PROPOSAL PREPARATION COSTS:

The costs to develop the bid proposal are entirely the responsibility of the bidder, and shall not be charged in any manner to the district. This includes, but is not limited to, the direct cost of the bidder's personnel assigned to prepare the bidder's response to this solicitation and any out-of-pocket expenses (including, but not limited to, travel, accommodation, supplies) incurred by the bidder in preparing their bid proposal.

14. VARIANCE TO BID DOCUMENTS:

For the purpose of bid evaluation, bidders must clearly stipulate any or all variances to the bid documents or specifications, no matter how slight. If variations are not stated in the bidder's proposal, it shall be construed that the bid proposal submitted fully complies in every respect with the bid documents.

15. ADDENDA TO BIDS IN PROCESS:

Interpretations of the bid, clarification of bid specifications and requirements or changes to the bid which have a *material effect* will be documented and communicated to bidders **only by written addenda**. Verbal responses to bidders' questions do not constitute an *official response* unless documented in the form of written addenda and shall be considered **inadmissible** in bid protest proceedings. All such written addenda should be acknowledged on the **Addendum Acknowledgement Form** or by returning a copy of the signed addendum along with your bid proposal as proof of receipt. Failure to acknowledge addenda containing material changes may constitute cause for rejection of your bid proposal. Telegraph, facsimile or e-mail acknowledgements of addenda will not be accepted.

16. FLORIDA STATE CONTRACTS & FLORIDA DEPARTMENT OF EDUCATION CONTRACTS:

The purchasing department reserves the right to reject all bids and purchase from State contracts or FDOE contracts if to do so represents the best interests of the district.

17. SAFETY REQUIREMENTS:

All items bid must comply with ALL applicable safety standards set by Federal, State and local regulations, OSHA & EPA guidelines, and any other laws and regulations that govern the item(s) or services requested in this bid. All electrically operated equipment shall be UL[®] rated or approved. Corded equipment shall have a 3-wire grounded power cord or be double insulated and labeled as such.

18. MATERIAL SAFETY DATA SHEETS:

The district requires that two (2) copies of all applicable *Material Safety Data Sheets* be furnished upon the initial purchase of any chemical or toxic substance or equipment which uses same. One (1) copy shall accompany the product shipment and the other copy must be sent to: Pinellas County School Board Risk Management Department, Attention Safety & Loss Coordinator, 301 Fourth Street S.W., Largo, FL 33770-3536.

19. PURCHASE OF MATERIALS WITH RECYCLED CONTENT:

The purchasing department will seek alternative bids, whenever possible, for select products containing recycled materials. Such products shall be purchased as long as all specifications are met and the price does not exceed an amount 10% more than the cost of comparable products made from 100% virgin materials.

20. MANUFACTURER'S CERTIFICATION:

The purchasing department reserves the right to request a separate letter from the manufacturer of the products bid certifying that all statements and claims made in the bid proposal are true, and that all products bid meet or exceed the specifications stated in the bid documents.

21. BID QUANTITIES:

Quantities listed in the bid are estimates provided for bidder information purposes only. No guarantee is given or implied as to the exact quantities which will be purchased from this bid. The district reserves the right to increase or decrease all estimated quantities during the term of this contract or to delete any item or items as it deems appropriate, without affecting the bid pricing or the terms and conditions of the bid.

22. METHODS OF AWARD:

- a) **“By Item”**: Each item in the bid will be awarded individually to the lowest responsive and responsible bidder.
- b) **“All or None by Group, Section or Category”**: The bid will be divided into Groups, Sections or Categories of similar types of items when it would be impractical to split the award to multiple vendors. Each Group, Section or Category will be awarded to the lowest responsive and responsible bidder in total. Bidders are required to bid all items within the Group, Section or Category in order to be considered for award of that Group, Section or Category. After bids are opened and tabulated, the purchasing department reserves the right to delete one or more items within a Group, Section or Category and recommend award of the balance of the items contained within that Group, Section or Category, if it is in the best interests of the district.
- c) **“All or None”** in total.
- d) **“Primary & Secondary Suppliers or Contractors”**. The bid is awarded to both a **Primary** and a **Secondary** supplier or contractor when it is critical to have a backup source of supply, or when it is anticipated that only one vendor cannot effectively handle the volume of business generated under the contract. In the event that the **Primary** supplier or contractor cannot perform in accordance with the district's needs, the district reserves the right to use the **Secondary** supplier or contractor at its sole discretion. The **Primary** and a **Secondary** suppliers or contractors are defined as the two lowest Responsive and Responsible bidders.
- e) **“Rotating Short List of Contractors”**. The bid is awarded to a short list of Responsive and Responsible contractors, the number of which is pre-defined in the bid documents. The district will use a list of selection criteria to determine eligibility to make the short list. Project work is rotated through the short list as it is identified. Every effort is made to equitably distribute the workload amongst all contractors.

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23. DELIVERY LEAD TIME:

Each bidder shall state the number of consecutive calendar days they require after receipt of order (A.R.O.) to either complete delivery or provide the requested services in the space provided on the **Bid Proposal** form. The length of time to complete a project and deliver all of the items ordered could be a factor in awarding this bid. If a finite number of days has been specified for delivery or project completion, this deadline must be met. If a finite number of days has not been specified in the bid and the bidder has not stipulated a specific lead time for delivery in their proposal, orders will be considered delinquent after 30 days from the issue date of the purchase order.

24. TAXES:

Purchases are exempt from ALL Federal excise and most State sales tax.

25. FISCAL NON-APPROPRIATIONS CLAUSE:

In the event sufficient budgeted funds are not available for a new fiscal period, the purchasing department shall notify the vendor of such an occurrence and the contract shall terminate on the last day of the current fiscal period without penalty or expense to the district.

26. BID SAMPLES:

The bidder shall provide product samples, without charge, when requested. Criteria used to determine compliance with specifications include, but are not limited to: performance, delivery lead time, workmanship, fit and finish, compatibility with existing stock, and durability. If the sample is not consumed through testing, it will be returned to the bidder when said request is submitted with the bid. Unused samples will be returned at the bidder's risk and expense. The successful bidders' samples may be retained until all the terms of the purchase order or contract have been fulfilled. All samples are to be submitted at the place indicated in the **Special Conditions** section of the bid in accordance with the instructions outlined therein.

27. PROMPT PAYMENT DISCOUNTS:

Only prompt payment discounts offered for thirty (30) days or longer will be taken into consideration when determining low bid.

28. TIE BIDS:

Prompt payment discounts offered by bidders will be considered to break tie bids. If all other factors are equal and no prompt payment discounts are offered, preference will be given to a Florida resident vendor over an out-of-state vendor. If all vendors are Florida residents, a Pinellas County vendor will receive preference; if there is no Pinellas County vendor, preference will be given to the one closest to the Pinellas County School Administration Building, based upon mileage data provided by Mapquest.com. If all vendors reside out-of-state or all reside within Pinellas County, preference shall be given to a bid received from a business that certifies that it has implemented a drug-free workplace program in accordance with section 287.087, Florida Statutes. In order to receive preference, a signed certification of compliance must be submitted with the bid response. If all bids, or no bids include a certificate of compliance, the tie will be broken by a coin flip in the presence of witnesses.

29. ERRORS AND OMISSIONS:

In the event a clerical error or obvious omission is discovered in a bidder's proposal, either by the purchasing department or the bidder, the bidder may have the opportunity of withdrawing their

bid, provided they can produce sufficient evidence to document that the error or omission was clerical in nature and unintentional. Copies of working papers, calculations, etc., may be requested at the purchasing department's discretion, to support the validity of such a request. A bidder will not be allowed to change any information contained in its bid proposal; however, in the event of a minor omission or oversight on the part of the bidder, the purchasing department (or "designee") may request written clarification from a bidder in order to confirm the district's interpretation of the bidder's response and to preclude the rejection of its bid, either in part or in whole. The purchasing department will have the authority to weigh the severity of the infraction and determine its acceptability.

30. BASIS OF AWARD OF BIDS:

When price and specification compliance are the primary criteria for making the vendor selection, the Superintendent will recommend the lowest responsive and responsible bidder(s) to the Board. A "Responsive" Bidder is defined as one whose bid or proposal is in substantial conformance with the material requirements of the bid. A Bidder who substitutes its standard terms and conditions for the district's, or who qualifies its bid in such a manner as to nullify or limit its liability to the district will be considered non-responsive. A "Responsible" bidder is defined as one who is able to perform and satisfactorily fulfill the requirements described in the invitation to bid or request for proposal. The district may apply all, or any part of the following criteria to measure a Bidder's degree of responsibility.

- Size of firm
- District's past experience with firm
- Financial status of firm
- Capabilities of Management and Technical staff
- Labor relations
- Internal procedures of the firm
- Capacity of the firm
- *Bonding capacity*
- Reputation of firm among its peers
- Customer references
- Service after the sale
- Facilities and reserve facilities
- Location of firm
- Location of service facilities
- Professional credentials

When additional criteria other than price must be considered, a point system may be used to make the vendor selection, the Superintendent will then recommend the vendor receiving the highest point score to the Board. With Requests for Proposals, where a point and ranking system is used to make the vendor selection, the Superintendent will recommend the vendor ranked best to the Board. Slight variations or irregularities may be accepted by the Board if either is found to be in its best interest. The Superintendent (or designee) shall be solely responsible for determining the acceptability of a bid.

31. REJECTION OF BIDS:

A bid may be rejected by the purchasing department if it is non-responsive or the bidder is determined to be not responsible. A bid is not officially rejected until the School Board takes official action. . The Board reserves the right to reject any or all bids received, but not for arbitrary or capricious reasons.

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32. NOTICE OF INTENT TO AWARD BIDS:

Once bids are evaluated and a recommendation for award is received by the purchasing department, a *Notice of Intent to Award* will be posted on the purchasing department's Web site @ www.pcsb.org/purch. For those who do not have Internet access, the notice will also be posted in a conspicuous location in the purchasing office located at the Largo Administration Building, 301 4th Street S.W., Largo, Florida. The recommendation for award is not official until this notice is posted. Intent to Award Notices are normally posted on or about the Monday two weeks preceding the Board meeting when the bid is scheduled for award. See the "Key Events & Dates" section of the Special Conditions for specific information. Occasionally a supplemental posting may occur after the regular Monday posting if it is essential to include the bid on the next Board agenda. This schedule may vary depending on the Board meeting schedule from month to month. **Since this information is available as outlined above, the purchasing department will not mail or fax intent to award notices to all bidders.**

33. BID PROTEST:

If a bidder wishes to protest a bid, they must do so in strict accordance with the procedures outlined in FS 120.57(3). Copies of this procedure are included in the bid document and are also available @ www.pinellas.k12.fl.us/purch/bidaward.html or from the purchasing department at the Largo Administration Building Office, 301 4th Street S.W., Largo, FL 33770-3536. Any person who files an action protesting the bid specifications or a decision or intended decision pertaining to this bid pursuant to FS 120.57(3)(b), shall post with the purchasing department at the time of filing the formal written protest, a bond payable to the Pinellas County School District in an amount equal to 1 percent (1%) of the total estimated contract value, but not less than \$500 nor more than \$5,000, which bond shall be conditioned upon the payment of all costs which may be adjudged against the protester in the administrative hearing in which the action is brought and in any subsequent appellate court proceeding. In lieu of a bond, a cashier's check, certified bank check, bank certified company check, money order or U.S. currency will be acceptable form of security. If, after completion of the administrative hearing process and any appellate court proceedings, the district prevails, it shall recover all costs and charges which shall be included in the final order or judgment, including charges made by the Division of Administrative Hearings, but excluding attorney's fees. Upon payment of such costs and charges by the protester, the protest security shall be returned. If the protester prevails, he or she shall recover from the district all costs and charges which shall be included in the final order of judgment, excluding attorney's fees.

34. NOTIFICATION OF BID AWARD:

After the Board awards a bid, the purchasing department will issue an official award letter, a purchase order, or both, which will authorize the bidder to commence delivering materials or providing services.

35. AUTHORIZATION TO PERFORM UNDER A CONTRACT:

All purchases must be properly authorized in advance. Vendors must first obtain either a printed purchase order, a purchase order number or a purchasing card account number before commencing performance under a contract. Vendors shall take no directions to modify (increase, change, decrease, cancel) a purchase order, once issued, from anyone other than the buyer listed on the purchase order. Additional work must be authorized in advance by the buyer who will issue either a change order to the original

purchase order or a supplemental purchase order. The vendor assumes all liability for any costs or damages incurred and payment will be denied for additional work if this procedure is not strictly followed.

36. PRESS RELEASES AND PUBLICITY:

No announcements or news releases pertaining to the bidder's participation in this bid or the award of this contract shall be made by the bidder, its representatives or agents without authorization from the purchasing department.

37. POINT OF CONTACT:

The district will consider the selected bidder(s) to be the sole point of contact with regard to all contractual matters, including payment of any and all charges.

38. ASSIGNMENT OF CONTRACT:

The final contract to be awarded and any resulting amounts to be paid shall not be transferred, pledged, or assigned without the prior written approval of the district.

39. LICENSES AND PERMITS:

The vendor shall obtain and pay for all necessary licenses, permits, and related documents required to comply with the bid specifications. The vendor shall save and hold harmless the district as a result of any infraction of the aforementioned.

40. CONDITION OF ITEMS:

Unless otherwise specified in the **Special Conditions** section of the bid, all items requested must be **new**, the **latest model manufactured, first quality, carry the manufacturer's standard warranty** and be **equal to or exceed the specifications** listed in the bid. Bids for "used, remanufactured or reconditioned" equipment or "blemishes or seconds" will not be considered unless specifically requested in the bid documents.

41. INSPECTION:

The district reserves the right to have inspectors on the premises of the bidders or manufacturers at any time during the manufacturing or assembly process to verify compliance with bid specifications.

42. PACKAGING:

All products require adequate packaging to protect them from damage in transit. Packaging must fully cover and protect merchandise. Vendors must fully comply with all special packaging requirements, if and when specified in the bid document. When corrugated carton packaging is specified, poly wrap or blanket wrap will not be acceptable. Bidders are requested to provide products with environmentally safe packaging if at all possible. The district assumes no responsibility for damage of any kind incurred while the items are in transit. Bidders may adjust unit packaging up or down only when attempting to reach the next standard unit pack. Otherwise, only exact quantities requested will be accepted and no overages will be allowed.

43. PATENTS AND COPYRIGHTS:

The bidder agrees to indemnify and save harmless the Board, its officers, agents and employees, from and against any and all claims and liabilities of any nature or kind, including without limitation attorneys' fees and costs, for use of any copyrighted or non-copyrighted materials, secret process, patented or unpatented inventions, articles or appliances, furnished or used in

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performance of the contract for which the contractor is not the patentee, assignee or licensee.

44. INDEMNIFICATION/HOLD HARMLESS AGREEMENT:

Awarded bidders/bidders shall, in addition to any other obligation to indemnify The School Board of Pinellas County, Florida, and to the fullest extent permitted by law, protect, defend, indemnify and hold harmless the Board, its agents, officers, elected officials and employees from and against all claims, actions, liabilities, losses (including economic losses), costs arising out of any actual or alleged:

1. Bodily injury, sickness, disease or death, or injury to or destruction of tangible property including the loss of use resulting therefrom, or any other damage or loss arising out of, or claimed to have resulted in whole or in part from any actual or alleged act or omission of the contractor, subcontractor, anyone directly or indirectly employed by any of them, of anyone for whose acts any of them may be liable in the performance of the work; or
2. Violation of law, statute, ordinance, governmental administrative order, rule or regulation by contractor in the performance of the work; or
3. Liens, claims or actions made by the contractor or any subcontractor or other party performing the work.

The indemnification obligations hereunder shall not be affected by any limitation on the amount, type of damages, compensation or benefits payable by or for the contractor of any subcontractor under workers' compensation acts; disability benefit acts; other employee benefit acts or any statutory bar. The bidder will carry comprehensive general liability insurance, including contractual and product liability coverage, with minimum limits acceptable to the Board, and will, at the request of the Board, supply certificates evidencing such coverage.

This article will survive the termination of the Contract.

45. STANDARDS OF CONDUCT

Vendors awarded a contract will be held to the same standards of conduct as employees of the school district while conducting business with the district. These standards, as defined in School Board policies, will apply not only to employees of the vendor, but also to the employees of its subcontractors.

46. ITEM SUBSTITUTIONS & DISCONTINUATIONS:

Under no circumstances may a vendor substitute a different product for any item they were awarded from this bid without prior approval from the purchasing department. In the event an awarded item is discontinued by the manufacturer or the vendor no longer offers the item in their product line during the term of this bid, the vendor **must** provide an acceptable substitute item at a mutually acceptable negotiated price, or risk being found in default. The vendor must file a written request with the purchasing department and be granted approval to substitute, in writing, before any substitution may be made. Requests to substitute should be accompanied by complete detailed, technical specifications for the proposed substitute item, and a sample, if requested. The district reserves the right to purchase on the open market while negotiations are being conducted.

47. RECEIPT OF MERCHANDISE & DELIVERY NOTIFICATION:

The purchaser reserves the right to reject any and all materials or products delivered which, in its opinion, do not comply with the bid specifications, within 5 calendar days of receipt. All materials or

products rejected by the purchaser shall be promptly removed and replaced by the vendor at no charge. All shipments are to be off-loaded from the delivery vehicle to the loading dock or brought inside the building if the facility has no loading dock. The exception will be for materials obviously intended for outdoor use. All shipments must be made by door-to-door rail freight or motor truck line. There are no rail sidings at any of our locations. Deliveries shall be made between the hours of 8:00 a.m. and 2:30 p.m., Monday through Friday, excluding holidays.

Exceptions to this schedule will be stated in the **Special Conditions** or on the purchase order. For shipments which may require the assistance of district personnel to off-load merchandise, or when the purchase order specifies vendor installation, the person to whose attention the items are being shipped should be notified a minimum of forty-eight (48) hours prior to delivery to allow sufficient time to prepare the area. Telephone numbers are included on all purchase orders directly below the *Ship-To Destination* address for this purpose.

48. EQUIPMENT DEAD ON ARRIVAL (D.O.A.):

Any product shipped which arrives inoperable or ceases to function within seven (7) business days of the initial installation shall be considered D.O.A. and shall be replaced by the vendor with a new product identical to the one ordered within 30 days of notification.

49. RETURNED MERCHANDISE:

All merchandise returned for any reason other than vendor error, vendor misrepresentation of product capabilities, or product defects may be subject to no more than a 15% restocking fee and return freight charges, negotiable between the district and the vendor. It is understood that merchandise should be returned in the original factory sealed carton whenever possible. The vendor shall provide a return merchandise authorization (RMA) without requiring a purchase order or credit card. The vendor shall ship replacement merchandise prior to receipt of returned merchandise, if applicable.

50. INVOICES AND PAYMENT TERMS:

All invoices, packing lists, and correspondence should reference our purchase order number. Unless otherwise stated in the **Special Conditions**, payment will only be made after the merchandise or services have been:

- Received complete or substantially complete;
- Inspected and found to comply with all specifications and be free of damage or defect;
- Properly invoiced.

To ensure timely payment, all original invoices should be submitted to the *Accounts Payable Department, Pinellas County School Board, PO Box 2942, Largo, FL., 33779-2942*. A minimum of **thirty (30)** days is required for payment. Photocopies of original invoices may be sent to other district personnel if requested, but the original copies must be sent to the Accounts Payable Department. Only the Accounts Payable Department may direct you otherwise. Failure to follow this procedure may result in payment delays. Occasionally a school may issue its own internal purchase order. Invoices associated with a **SCHOOL** purchase order should be submitted directly to the school for payment. **Do not send invoices associated with school purchase orders to the Accounts Payable Department.**

51. BREACH OF CONTRACT AND TERMINATION FOR CAUSE:

The District reserves the right to terminate this contract for cause which shall include without limitation the failure of the vendor to

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comply with any provision of this contract. Prior to the district terminating a contract, the Director of Purchasing will initiate an internal review of the case in which the vendor may be invited to participate. If after examining the facts surrounding the case, it is determined that sufficient grounds exist to declare the vendor in default, the Superintendent (or designee) shall provide the vendor written notice of default and termination, making specific reference to the provision(s) that gave rise to the breach. If the nature and scope of the breach would allow for a cure within 10 days, the notice shall inform the vendor of its right to cure the default within the ten (10) days following receipt of the notice. If the breach is not cured within said 10 day period, the Superintendent (or "designee") shall serve a written notice of termination on the vendor, which shall become effective upon the vendor's receipt of such notice. The failure of either party to exercise its rights shall not be considered a waiver of such rights in the event of any further breach or non-compliance. In the case of termination, only the portion of the contract satisfactorily performed before the date of termination will be due and payable to the vendor. If bid performance security was required with the bid, the district may elect to execute the performance security as liquidated damages. If bid performance security was not required, the bidder shall pay to the district, as liquidated damages, an amount equal to 5% of the total estimated value of the item(s) in question or \$25, whichever amount is larger. If the bid pricing was expressed as a lump sum amount, then the amount due will be 5% of the remaining value of the contract. A vendor who fails to pay said liquidated damages within fifteen (15) days after notification that liquidated damages are due, shall lose eligibility to transact business with the district for a period of not less than one (1) year, but no more than two (2) years after the date of the default. Thereafter, the bidder may request to be reinstated to the active bidders list. Either party may terminate the contractual relationship between them, including the obligation for payments for goods or services not yet delivered, without cause by sending ninety (90) days written notice to the other party.

52. RENEWAL OF BIDS:

Unless otherwise specified in the **Special Conditions** section, bids may be renewed for one (1) term equal to the original bid term, or for two (2) successive one (1) year periods, whichever is greater, under similar terms, conditions and specifications as the original bid.

53. ACCESS TO RECORDS:

The District, a Federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives shall have access to any books, documents, papers, and records of the bidder, contractor or subcontractor which are directly pertinent to this specific contract for the purpose of making audit, examination, excerpts, and transcriptions.

54. EQUAL EMPLOYMENT OPPORTUNITY (34 CFR 80.36(i)(3)):

All vendors, contractors and subcontractors must comply with Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 CFR chapter 60). (Applies to all construction contracts awarded in excess of \$10,000 by the district and their contractors or subgrantees). (Applies only if checked on **Invitation to Bid** form, page 1).

55. COPELAND "ANTI-KICKBACK" ACT (34 CFR 80.36(i)(4)):
All vendors, contractors and subcontractors must comply with the Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR part 3). (Applies to all contracts and subgrants for construction or repair). (Applies only if checked on **Invitation to Bid** form, page 1).

56. DAVIS-BACON ACT (34 CFR 80.36(i)(5)):

All vendors, contractors and subcontractors must comply with the Davis-Bacon Act (40 U.S.C. 276a-7) as supplemented by Department of Labor regulations (29 CFR part 5). (Construction contracts in excess of \$2000 awarded by grantees and subgrantees when required by Federal grant program legislation). (Applies to construction contracts in excess of \$2000 awarded by the district and subgrantees when required by Federal grant program legislation). (Applies only if checked on **Invitation to Bid** form, page 1).

57. CONTRACT WORK HOURS & SAFETY STANDARDS ACT (34 CFR 80.36(i)(6)):

All vendors, contractors and subcontractors must comply with sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR part 5). (Applies to all construction contracts awarded by the district and subgrantees in excess of \$2000, and in excess of \$2500 for other contracts which involve the employment of mechanics or laborers). (Applies only if checked on **Invitation to Bid** form, page 1).

58. RECORDS RETENTION (34 CFR 80.36(i)(11)):

All vendors, contractors and subcontractors must retain all records pertaining to this contract for three years after the District makes final payments and all other pending matters are closed. (Applies only if checked on **Invitation to Bid** form, page 1)

59. CLEAN AIR ACT (34 CFR 80.36(i)(12)):

All vendors, contractors and subcontractors must comply with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15). (Applies to contracts, subcontracts, and subgrants of amounts in excess of \$100,000). (Applies only if checked on **Invitation to Bid** form, page 1).

60. ENERGY EFFICIENCY (34 CFR 80.36(i)(13)):

All vendors, contractors and subcontractors must comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871). (Applies only if checked on **Invitation to Bid** form, page 1)

61. VARIANCE IN CONDITION:

Any and all **Special Conditions** and specifications attached hereto which vary from these **GENERAL TERMS and CONDITIONS**, shall have precedence.

SPECIAL CONDITIONS

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SCOPE

Pinellas County Schools (district) desires to continue the current wireless infrastructure consisting of **Juniper Networks** (formerly **Trapeze Networks**) access points, controllers, management software and licenses for full 802.11b/g/n roaming coverage across the school. While supporting the Juniper product in some locations the district will also begin migrating new installations to the **Aruba OR Cisco** product lines. This bid is for a **licensed installer** who is also an authorized **Reseller of both Juniper and Aruba and/or Juniper and Cisco products** to provide 802.11a/g/n/ac equipment, installation, and management software which will provide an overall solution for managed wireless network deployment within the district. This solution includes the specific listed hardware and software for a school-wide campus environment and may include class rooms, outdoor areas, such as, courtyards and playing fields and high speed wireless links between buildings.

Bidders must bid on Category A (Juniper product line) and Category D (Parts and Installation). Then bidders must also bid on Category B (Aruba product line) and/or Category C (Cisco product line). Every effort has been made to make the comparison of the Cisco and Aruba product lines equitable.

CONTRACT PERIOD

The Contract Period shall commence on **July 1, 2015**, and end **June 30, 2017**. Prices and discounts shall remain firm for this period and shall include **ALL** freight and handling charges.

CONTRACT VALUE

For the purposes of calculating the amount of a protest bond, this contract is valued at approximately \$ 900,000.00 for the initial two year contract period excluding renewal options. This is only an **estimate** and the actual amount could vary up or down. The district will not be held responsible if actual purchases are less than this amount.

BID CONTENT & SUBMITTAL

Two (2) complete copies (1 original & 1 copy) of the bid proposal shall be submitted by respondents. Each bid proposal shall include all information and submittals required or requested in this bid. Incomplete bid proposals may be declared non-responsive. Please refer to the Submittal Checklist on pages 24 & 25 for a list of required or requested submittals.

AWARD

This bid will be awarded **All or None** to the responsive and responsible bidder achieving the lowest cost total on the Bid Proposal Form; Total of Categories A, B and D (Juniper, Aruba and Parts and Installation) **OR** Total of Categories A, C and D (Juniper, Cisco and Parts and Installation). The percent discount on the bidding form for each product line will be considered as informational only but may be used in the event of a tie between the Cisco and Aruba product line.

PRICE INCREASES

Wherever you are asked to bid a discount, said discounts may not change for the initial term of the contract, including any subsequent renewal options, if exercised. Where firm, fixed pricing is requested, this pricing must remain firm for the initial two year term of the contract. Price increases for subsequent renewal periods will be governed by the rules outlined in the section titled ***RENEWAL OPTION*** to follow.

RENEWAL OPTION

By mutual consent of the School Board of Pinellas County, Florida, and the successful bidder, this contract may be renewed for **two (2) additional one (1) year periods** as long as price increases do not exceed the rate of inflation determined by the Consumer Price Index for urban wage earners and clerical workers, U.S. city average, all items (1982-84=100), published by the U.S. Bureau of Labor Statistics or any successor or substitute index appropriately adjusted from the commencement of the initial term of the contract to commencement of each extension period. If bidding discounts from list price, discounts offered may not change.

BID & PERFORMANCE SECURITY

Bid and performance security is required for this bid. See Bid, Performance and Payment Security Requirements later in this document for details pages 32-34. The amount of the Performance Security shall be \$900,000 for the initial two year term of the bid.

SERVICE REQUIREMENTS

1. Replacement parts shall be made available in sufficient supply to keep equipment purchased from this bid in operational condition for a minimum of three (3) years after equipment delivery and acceptance for Trapeze equipment and five (5) years for Aruba. After expiration of any warranties and during these periods, all required parts shall be shipped within sixty (60) days after receipt of customer's purchase order.
2. The successful bidder shall include the cost of installation when requested in the specifications. If the specification calls for assembly by the vendor, equipment shall be assembled either before or upon delivery. If equipment is assembled prior to delivery, the vendor must package merchandise appropriately and take all necessary precautions to avoid damage in transit. The recipient shall make every attempt to inspect merchandise upon delivery, if possible, and make note of any damage on the bill of lading. Damaged goods discovered after delivery personnel have left, shall be reported to the vendor within ten (10) calendar days of receipt for replacement or repair. When installation is complete, the vendor will be responsible to dispose of all packing materials, and to leave the site in a clean and orderly state.
3. The vendor will be required to have a low voltage license ES, ET, EC or EF from the State of Florida as required to perform installation of data network wiring.
4. The vendor will be expected to make simple electrical connections to existing utilities to confirm that equipment is functioning properly. Under no circumstances will the vendor be required to run new electrical service to the equipment, unless specifications call for this. In these cases, only **licensed** contractors shall perform the work and the vendor must provide an acceptable insurance certificate to the district before work commences.

ADJUSTMENTS TO CONTRACT TERMS & CONDITIONS NECESSITATED BY VOLATILITY OF THE MARKETPLACE

The district may, in its sole discretion, make an equitable adjustment in the contract terms and/or pricing if pricing or availability of supply are affected by extreme and unforeseen volatility in the marketplace, that is, by circumstances that satisfy all of the following criteria:

1. The volatility is due to causes wholly beyond the vendor's control
2. The volatility affects the marketplace or industry, not just the particular vendor's source of supply
3. The effect on pricing or availability of supply is substantial
4. The volatility so affects the vendor that continued performance of the contract would result in substantial loss or financial hardship

The determination as to whether a situation represents "extreme" volatility of the marketplace and/or whether the effect on pricing or availability is "substantial" shall be solely at the discretion of the district. Requests for adjustments will not be considered more than once in a 90-day period.

SPECIAL CONDITIONS

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BACKGROUND SCREENING

As required by The Jessica Lunsford Act [s.21 of Ch.2005-28, L.O.F.], if anyone representing a vendor under contract with the school district **will have access to school grounds when students are present, have direct contact with students or have access to or control of school funds**, such personnel are required to be screened at Level 2, to include fingerprinting, statewide criminal and juvenile justice records checks through the Florida Department of Law Enforcement and federal criminal records checks through the Federal Bureau of Investigation. [s. 1012.465, Florida Statutes]

The requirements of this law must be met in order for the School Board to contract with your company. To make an appointment to be screened by Pinellas County Schools, go to:

<http://fieldprintflorida.com/>

For a full submission (fingerprinting and badge) use code FPPCSVendors. For a badge only (badge replacement) use code FPPCSBade.

If Contractor/Vendor is awarded all or a portion of this bid, Contractor/Vendor hereby acknowledges and agrees to abide by the Florida Jessica Lunsford Act (1012.465, F.S.) and obtain, at its own cost, Level 2 clearance of all employees, agents, and subcontractors who (1) have access to school grounds when students are present, (2) have direct contact with students, on or off school grounds, or (3) have access to or control of school funds.

INSURANCE

Insurance is required of all vendors who perform work on School Board premises. If this bid requires that you work on our premises, an attachment titled: Insurance Specifications for Contractors will be included giving details.

NON-EXCLUSIVE AGREEMENT

This bid does NOT establish an exclusive arrangement between the district and vendor. The district reserves, but is not limited to, the following rights:

- The unrestricted right to use others to perform work, provide services or deliver the same or similar products as described herein when it is to the economic benefit of the district.
- The unrestricted right to separately bid any work, products or services as described herein when it is to the economic benefit of the district.

CONTRACT ADMINISTRATION

The vendor must possess a current SPIN number from the Schools and Libraries Division (SLD) and participate in the federally funded E-rate Program administered by the SLD Page 20.

WARRANTY

Vendor shall provide a minimum of a one year 100% on-site parts & labor warranty for all hardware, software and installation. Vendor shall respond to warranty service calls to effect repairs to the system within 24 business hours of notification or vendor shall correct the problem using remote access software. Vendor must provide either a toll-free telephone number or free on-line utility for reporting service outages and requesting warranty service.

BUSINESS HOURS & DAYS OF OPERATION

Regular School Year

Days of operation are **Monday thru Friday** (excluding holidays) 8 a.m. to 4:30 p.m.

Warehouse receiving 7 a.m. to 2:30 p.m.

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Summer

From approximately the 2nd week of June thru the 2nd week of August all schools are closed, with the exception of those that may be in summer session. Beginning the 4th week of August, schools are once again in session. For more specific information call (727) 588-6143 to confirm if a school can accept deliveries.

Days of operation are **Monday thru Thursday** as follows:

- **Administrative Facilities and Schools:** 7:30 a.m. to 5:30 p.m.
- **Walter Pownall Service Center:** 6:30 a.m. to 5 p.m. (receiving 6:30 a.m. to 4:30 p.m.)

ADDITIONAL QUESTIONS/CLARIFICATIONS

Additional questions or clarifications regarding this Request for Proposal shall be directed in writing to the buyer listed on page 1 of this document by the end of the day listed on the Key Events & Dates table as the ***“Last Day to request additional information or clarification”***. Direct questions and clarifications to:

Mark Shuman, CPPO, CPPB
Manger, Purchasing
shumanma@pcsb.org

HOLIDAY BREAKS

Each year, schools and administrative offices are closed for Thanksgiving, Winter and Spring break periods. Shipments cannot be accepted during these periods. These dates will vary each year depending upon our negotiated personnel calendar and when the Holidays actually fall.

Spring Break, 2015: Schools: March 30 thru April 3, 2015
Administrative Offices: March 30 thru April 3, 2015

KEY EVENTS & DATES:

- January 20, 2015 Bid notice e-mailed to prospective bidders & bidding documents posted on the www.publicpurchase.com
- February 13, 2015 Last Day to request additional information or clarification
- February 20, 2015 **Proposals due in Purchasing @ 3 p.m. E..T.** Public bid opening to follow immediately thereafter in Room A318, Purchasing Department, School Administration Building, 301 4th Street S.W., Largo, Florida.

NOTE: Please allow sufficient time if delivering proposals in person. You must present a government issued drivers' license or ID to the officer at the front desk in order to be issued a visitor's badge to access entry to the School Administration Building.
- February 20 thru February 23, 2015 Evaluate bids and make selection of contractor(s)
- February 23, 2015 Recommendation For Award Submitted to Purchasing by Telecommunications Dept.
- *On or About March 2, 2015 Notice of Intent to Award posted in the purchasing department and on the department's Web site @ <http://www.pinellas.k12.fl.us/purch/bidaward.html> .

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- March 17, 2015 Submit Recommendation for award to School Board for approval (estimated date of School Board approval)

*If the time allotted to evaluate bids and make the selection of contractors as stated above proves to be insufficient, the posting of the Notice of Intent To Award and the Board approval date could both slip two weeks or more. Continue to monitor our website or contact the purchasing department for more specific information as to when the notice will be posted.

BID OPENING PROCEDURES

Please be aware that any meeting at which (1) there is negotiation with a vendor, (2) a vendor makes an oral presentation, or (3) a vendor answers questions, pursuant to a competitive solicitation, are closed to competitors and other members of the public. Team meetings at which negotiation strategies are discussed are likewise closed. Such meetings shall be recorded.

The School Board's practice of reviewing and disclosing pricing and other contents of bid proposals have changed in accordance with recent changes in the law. At bid openings, district personnel will only reveal the names of the bidders, unless the bid or proposal is a competitive solicitation for construction or repairs on a building, then the name of each bidder and price submitted shall be read at a public bid opening per F.S. 255.0518. The recordings and bid proposals shall be exempt from public records requests until such time as the notice of an intended decision is published or until 30 days after opening the bids, proposals, or final replies, whichever occurs earlier.

If the School Board rejects all bids, proposals, or replies and concurrently provides notice of its intent to reissue a competitive solicitation, the recordings and any records presented at the exempt meeting remain exempt from public records requests until such time as the School Board provides notice of an intended decision concerning the reissued competitive solicitation or until the School Board withdraws the reissued competitive solicitation. A recording and any records presented at an exempt meeting are not exempt for longer than 12 months after the publication of the initial notice rejecting all bids, proposals, or replies. Section 119.071(1)(b), F.S.; and Section 286.0113, F.S.

PUBLIC RECORD LAW

The School Board of Pinellas County, Florida ("PCSB"), is a public agency subject to Chapter 119, Florida Statutes. Effective July 1, 2013, the Florida Legislature enacted §119.0701. This statute requires that all contractors shall comply with Florida's public record laws with respect to services performed on behalf of PCSB. Specifically, the statute requires that contractors:

- Keep and maintain public records that ordinarily and necessarily would be required by the public agency in order to perform the service.
- Provide the public with access to public records on the same terms and conditions that a public agency would provide the records and at a cost that does not exceed the cost provided by Chapter 119 of the Florida Statutes or as otherwise provided by law.
- Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law.
- Meet all requirements for retaining public records and transfer, at no cost, to the public agency all public records in possession of the contractor upon termination of the contract and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to PCSB in a format that is compatible with the information technology systems of PCSB.

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The failure of the Contractor to comply with the provisions set forth in this Article, if applicable, shall constitute a default and material breach of this Agreement, which may result in immediate termination, with no penalty to PCSB.

INTEGRITY OF BID DOCUMENTS

Bidders shall use the original Bid Proposal Forms provided by the Purchasing Department and enter information only in the spaces where a response is requested. Bidders may use an attachment as an *addendum* to the Bid Proposal Form if sufficient space is not available on the original form for the bidder to enter a complete response. Any modifications or alterations to the original bid documents by the bidder, whether intentional or otherwise, will constitute grounds for rejection of a bid. Any such modifications or alterations that a bidder wishes to propose must be clearly stated in the bidder's proposal response and presented in the form of an addendum to the original bid documents.

FILLABLE BID FORMS

For your convenience, some of the forms which must be completed and submitted along with your bid proposal will be posted along with the bid document on the district website in a protected Word file format which will enable you to type your responses on the forms. The file will be named **15-154bidforms**. Please use these forms to avoid the need to hand write information. If sufficient room has not been provided on the form to enable you to enter a complete response, please include a supplemental attachment if necessary. Please note that this file may not include all the forms that should be submitted with your bid proposal so please check the **Submittals Checklist** near the end of this document for a complete list of requested and required submittals.

ADMINISTRATIVE CRITERIA

Other Vendor Requirements:

Vendor must:

1. The bidder must provide ES, ET, EC, or EF State of Florida low voltage license as a contractor for installing low voltage systems.
2. Possess a current SPIN number from the Schools & Libraries Division (SLD) and participate in the federally funded E-rate Program, Page 20.
3. Name of inside sales representative who can be reached during working hours by e-mail and toll-free telephone. Space is provided on the Bid Proposal Form to enter this information, Page 21.
4. Provide telephone technical support 8:00 a.m. to 5:00 p.m. EST, Monday – Friday, included with purchase of hardware for troubleshooting and configuring the implementation of newly purchased product, Page 21.
5. Have customer accessible support web FTP site for the purposes of downloading, configuring, specifying and relaying information on new releases of firmware, upgrades and known issues. This may be provided by manufacturers in lieu of vendor, Page 21.
6. Offer a fixed percentage discount off manufacturer's retail prices which the District can use to purchase from the full line of selected manufacturers' products at any time. See Bid Proposal Forms Page 18 for space to provide this discount.
7. Provide the name, address, title and telephone number of four references, at least one from Pasco, Pinellas, Manatee, Hillsborough or Polk County public entities who can attest to the respondent's ability to perform the work requested and consistently meet required timelines. Use the enclosed Customer Reference Form on page 22 for this purpose
8. If the contractor sub-contracts this service, the contractor still retains ultimate responsibility for all repair and warranty work performed. If the contractor will be using a subcontractor, shall provide information about the subcontractor using the form found on page 23.
9. Each technician is required to wear a badge in compliance with the Jessica Lunsford Act. In addition, for each call, each technician must sign-in and sign-out (in the Maintenance Department Sign-in Book or other book as required at the specific site) at the main office of the facility being serviced.
10. Invoices must reference Telecommunication Request Number or Problem Number as assigned by the School Board of Pinellas County. If the invoice does not have this reference, it will not be processed and will be returned for the missing information. A brief description of the service provided must be listed, including an itemized accounting of all charges (parts, labor, etc.).
11. Any written complaints by the School Board of Pinellas County regarding work performed under this contract require written response by the contractor within 72 hours of receipt.
12. Each warranty service call is assigned a problem number and must be reference in all communication, both verbal and written.
13. A service call is considered complete when all required repair parts have been installed and the malfunction is repaired. Upon completion of the service call, the technician must place a call from the service facility to the Network and Telecommunications Department Service Status voice mailbox at the Administration Building to close the service call. The technician shall provide the facility name, problem number assigned to the service call, and a brief overview of what was done to restore service at that location. In addition, the technician must obtain a signature of the contact person or designee and leave a signed copy of the service call report with the contact person at the facility.
14. Under no circumstances shall a service order be billed until it is completed. This includes any orders which cannot be completed due to a lack of materials. In the event a supply problem arises, the contractor must explain the situation to Pinellas County Schools, Director, Network and Telecommunications and present alternative solutions.

All bidders should provide the following submittals along with your proposal or your bid could be declared non-responsive.

- Proof that bidder is an authorized **Juniper, Aruba, or Cisco wireless Reseller** in good standing. Bidder must have staff certified and authorized to design, install, and service Trapeze Mobile systems.

BID PROPOSAL FORM

For the purpose of this bid please quote a unit price for each of the items listed below including either Aruba or Cisco per award paragraph on page 9. All prices must remain firm for the initial two-year term of this contract. Provide a discount % off retail price or educational pricing for the balance of the Juniper, Aruba and Cisco wireless product lines not specifically listed here. The successful bidder will be responsible to provide the purchasing department with updated retail price lists as they become available.

Description	Quantity	Unit Price	Extended Total
Category A: Juniper / Trapeze:			
Access Point, indoor, 802.11n, 3X3Juniper WLA-532	400	\$	\$
Mobility Services Appliance WLM1200-UMSP w ringmaster software	1	\$	\$
PoE injector	1	\$	\$
WLC800 Wireless LAN Controller, supports up to 192 access points, includes licensing bundle of 16 out of box.	2	\$	\$
WLC880 Wireless LAN Controller, supports up to 256 access points, includes licensing bundle of 16 out of box.	2	\$	\$
Juniper AP licenses Software license – additional bundle of 16 licenses.	20	\$	\$
Juniper AP licenses Software license – additional bundle of 32 licenses.	20	\$	\$
Juniper Ring Master licenses Software license – additional bundle of 250 licenses.	5	\$	\$
Total Category A: Juniper/Trapeze			\$
Category B: Aruba:			
Aruba Instant IAP-215 Wireless Access Point, 802.11n/ac, 3x3:3, dual radio, integrated antennas IAP-215-US	100	\$	\$
Aruba Instant IAP-205 Wireless Access Point, 802.11n/ac, 2x2:2, dual radio, integrated antennas IAP-205-US	400	\$	\$
Aruba Instant IAP-275 Outdoor Wireless Access Point, 802.11n/ac, 3x3:3, dual radio, integrated antennas IAP-275-US	5	\$	\$
Aruba 7210-US Mobility Controller four 10GBASE-X (SFP+), one 350 watt AC power supply, restricted regulatory domain – US	1	\$	\$
AW-2500 License for 1000 devices	1	\$	\$
AW-2500 License for 500 devices	1	\$	\$
AW-2500 License for 100 devices	1	\$	\$
SA1-AW-1000 Support for AW-2500 (1-Year)	1	\$	\$
SA1-AW-500 Support for AW-2500 (1-Year)	1	\$	\$
SA1-AW-200 Support for AW-2500 (1-Year)	1	\$	\$
Total Category B Aruba			\$

BID PROPOSAL FORM

Description	Quantity	Unit Price	Extended Total
Category C: Cisco			
802.11ac CAP w/CleanAir; 3x4:3SS; Int Ant; A Reg Domain - AIR-CAP2702I-A-K9	100	\$	\$
802.11ac CAP; 3x3:2SS; Int Ant; A Reg Domain - AIR-CAP1702I-A-K9	400	\$	\$
802.11ac Outdoor AP Int-Ant Cable NA-D3.0 85/108MHz Reg-A - AIR-AP1572IC2-A-K9	5	\$	\$
Cisco 8500 Series Wireless Controller with 0 AP included - AIR-CT8510-SP-K9	1	\$	\$
LIC-CT8500-1000A license for 1000 devices	1	\$	\$
LIC-CT8500-500A License for 500 devices	1	\$	\$
LIC-CT8500-100A License for 100 devices	1	\$	\$
1000 AP Adder License for Cisco 8500 Wireless Controller - CON-SNT-LICCT851KA	1	\$	\$
500 AP Adder License for Cisco 8500 Wireless Controller - CON-SNT-LICCT855	1	\$	\$
100 AP Adder License for Cisco 8500 Wireless Controller - CON-SNT-LICCT851	1	\$	\$
SMARTNET 8X5XNBD Top Lvl SKU for 8510 AP Upg Lic CON-SNT-CT8500UP, 1 year	1	\$	\$
Total Category C: Cisco			\$
Category D: Parts and installation			
150 foot Category 6e cable terminated to a vacant patch panel port w building room number label.	25	\$	\$
Surface mount raceway both Wire mold and non-metallic, materials only	100	\$	\$
Cat6 jack installed on a surface mounted, single-gang outlet box with faceplate, Hubbell	100	\$	\$
Patch Cord, Cat6, 2', yellow	25	\$	\$
Patch Cord, Cat6, 5', yellow	25	\$	\$
Cat6 cable price per foot	1000	\$	\$
Support J hooks	10	\$	\$
Hourly Labor Rate, wiring installation, on-site time only	400	\$	\$
Patch Panel, 24-port, Tripplite Cat6 N252-024	5	\$	\$
Patch Panel, 48-port, Tripplite Cat6 N252-048	2	\$	\$
Total Category D: Parts and Installation			\$

Total Categories A, B and D	\$
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Total Categories A, C and D:	\$
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BID PROPOSAL FORM

Please bid balance of line discount listed below. Discounts will not be used in determining low bid, but may be used in the event of a tie between Aruba and Cisco product lines.

Description	Discount %
Balance of Line Discount	
Balance of line discount off retail or educational price for complete Juniper wireless product line	%
Balance of line discount off retail or educational price for complete Aruba wireless product line	%
Balance of line discount off retail or educational price for complete Cisco wireless product line	%
Balance of line discount off retail or educational price for complete Aruba Clearpass product line specifically	%
Balance of line discount off retail or educational price for complete Cisco Prime product line specifically	%

ADDENDUM ACKNOWLEDGEMENT FORM

ADDENDA ACKNOWLEDGMENT: The undersigned also acknowledges the receipt of the following Addenda:

<i>ADDENDUM NO.</i>	_____	DATED	_____	<i>ADDENDUM NO.</i>	_____	DATED	_____
<i>ADDENDUM NO.</i>	_____	DATED	_____	<i>ADDENDUM NO.</i>	_____	DATED	_____
<i>ADDENDUM NO.</i>	_____	DATED	_____	<i>ADDENDUM NO.</i>	_____	DATED	_____
<i>ADDENDUM NO.</i>	_____	DATED	_____	<i>ADDENDUM NO.</i>	_____	DATED	_____

SCHOOLS AND LIBRARIES DIVISION
E-RATE PARTICIPANT WITH PINELLAS COUNTY SCHOOL BOARD

On May 7, 1997, the Federal Communications Commission (FCC) adopted a Universal Service implementing the Telecommunications Act of 1996. The Order ensures that all eligible schools and libraries have affordable access to modern telecommunications and information services. Up to \$2.25 billion annually is available to provide eligible schools and libraries with discounts, often referred to as the "E-Rate," for authorized services, beginning January 1, 1998. Your signature below indicates that your company will participate in the E-Rate program with Pinellas County School Board following the regulations set forth by the Schools and Libraries Division (SLD). Information regarding the E-Rate program is available by calling 1-888-203-8100 or on the following web site:

<http://www.usac.org>

The company, by affixing this signature agrees to follow the regulations set forth by the Schools and Libraries Division.

Company Name

Address

City, State, Zip

Telephone

Fax

FEIN

Signature of Owner or
Authorized Office/Agent

Typed Name of Above

Vendor Spin # _____ (obtain from the SLD)

Paragraph explaining all eligible services you are providing to the district using the SLD guidelines:

Note: For a listing of the Pinellas County School E-rate Discount Schedule click on the following website
<http://www.fldoe.org/edtech/erate/worksheets.asp>. The discount is based on the number of free and reduced lunch students at each school. Example: Schools approved for the E-rate with a 60% discount pay 40% of the costs of selected telecommunications services, Internet Access & Internal Connections.

VENDOR INFORMATION FORM

Provide the following as stipulated in the Specifications section.

ORDER STATUS INFORMATION

Telephone

Facsimile

SUPPORT DESK INFORMATION

**Toll-Free
Telephone**

CUSTOMER ACCESSIBLE SUPPORT

Company Name

Contact Name:

Telephone:

Fax:

E-mail:

CUSTOMER REFERENCE FORM

(duplicate as needed)

Please provide all requested information for each reference.

Company Name: _____

Business Type: _____

Contact Person: _____

Telephone: _____

Email: _____

Date Last Supplied Products or Services: _____



Company Name: _____

Business Type: _____

Contact Person: _____

Telephone: _____

Email: _____

Date Last Supplied Products or Services: _____



Company Name: _____

Business Type: _____

Contact Person: _____

Telephone: _____

Email: _____

Date Last Supplied Products or Services: _____

PROPOSED SUBCONTRACTORS

BID NO: 15-205-154

PROJECT: Wireless Network Equipment and Installation; Juniper,
Aruba, and Cisco

Please provide a list of subcontractors that you intend to sub any portion of this project to in accordance with Florida Statute F.S.255.0515 and SREF 4.2 (d) (3).

Type of Trade	Company Name	License Holder	License Number	Contact e-mail /phone
#####	#####	#####	#####	#####
#####	#####	#####	#####	#####
#####	#####	#####	#####	#####
#####	#####	#####	#####	#####
#####	#####	#####	#####	#####
#####	#####	#####	#####	#####
#####	#####	#####	#####	#####
#####	#####	#####	#####	#####
#####	#####	#####	#####	#####
#####	#####	#####	#####	#####
#####	#####	#####	#####	#####

If subcontractors are not going to be utilized for this project please sign here _____.

SUBMITTALS CHECKLIST

Name of Bidder: _____

Signature of Buyer: _____

Signature of Evaluator: _____

To help ensure that you include all the submittals necessary to complete a thorough evaluation of your bid proposal, we ask that you use this checklist to make sure you have enclosed all **Required** submittals before sealing and mailing your proposal.

The list below comprises the **Required Submittals**, and they **must be** submitted at the time you submit your bid or your bid **will be** declared non-responsive. **Submit Two (2) copies of your complete proposal, 1 original and 1 copy.**

Verified by Bidder	Verified by Buyer	Verified by Evaluator	Description of Required Submittal	Page No.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Completed and signed Invitation to Bid Form 852-A.	1
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Bid Security: Please review all Guidelines as stated in “ Bid, Performance and Payment Security Requirements for Vendors & Contractors ”	10, 33 - 35
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Copy of bidder’s current and valid State of Florida Low Voltage Installation License ES, ET, EC or EF license	10, 15
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Completed E-Rate Participant Form	11,20
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Vendor Information Form	15, 21
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	List of Four References	15, 22
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	List of Subcontractors	15, 23
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Bid Proposal Forms	16-18

SUBMITTALS CHECKLIST

Items listed as **Requested** should be submitted at the time you submit your bid to facilitate the bid evaluation process, but will not be cause for declaring your bid non-responsive.

Verified by Bidder	Verified by Buyer	Verified by Evaluator	Description of Requested Submittal	Page No.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Proof that Bidder is a Juniper, Aruba, or Cisco Authorized Reseller	15
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Completed and signed Drug Free Workplace Certification Form (optional)	26
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Completed and signed Certification Regarding Debarment Form AD-1048	27
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Certificate of Insurance including evidence of workers compensation coverage	30-31

DRUG FREE WORKPLACE CERTIFICATION FORM

In accordance with Florida Statute 287.087, preference shall be given to businesses with drug-free workplace programs. Whenever two or more bids which are equal with respect to price, quality, and service are received by the State or by any political subdivision for the procurement of commodities or contractual services, a bid received from a business that certifies that it has implemented a drug-free workplace program *shall be given preference* in the award process. Established procedures for processing tie bids will be followed if none of the tied vendors have a drug-free workplace program. In order to have a drug-free program, a business shall:

- 1) Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition.
- 2) Inform employees about the dangers of drug abuse in the workplace, the business's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations.
- 3) Give each employee engaged in providing the commodities or contractual services that are under bid a copy of the statement specified in subsection (1).
- 4) In the statement specified in subsection (1), notify the employees that, as a condition of working on the commodities or contractual services that are under bid, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to, any violation of chapter 893 or of any controlled substance law of the United States or any state, for a violation occurring in the workplace no later than five (5) days after such conviction.
- 5) Impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program if such is available in the employee's community, by any employee who is so convicted.
- 6) Make a good faith effort to continue to maintain a drug-free workplace through implementation of this section.

As the person authorized to sign the statement, I certify that this firm complies fully with the above requirements.

(vendor's signature)

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION
INELIGIBILITY AND VOLUNTARY EXCLUSION - LOWER TIER COVERED
TRANSACTIONS**

This certification is required by the regulations implementing *Executive Order 12549, Debarment and Suspension, 7 CFR Part 3017, Section 3017.510, Participants responsibilities*. The regulations were published as ***Part IV of the January 30, 1989, Federal Register (pages 4722-4733)***.

******* BEFORE COMPLETING CERTIFICATION, READ INSTRUCTIONS ON REVERSE SIDE *******

- (1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- (2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attached an explanation to this proposal.

Organization Name

PR/Award Number or Project Name

Name(s) and Title(s) of Authorized Representative(s)

Signature(s)

Date

Form AD-1048 (1/92)

INSTRUCTIONS FOR CERTIFICATION

1. By signing and submitting this form, the prospective lower tier participant is providing the certification set out on the reverse side in accordance with these instructions.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this form that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this form that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Form AD-1048 (1/92)

Executive Order 12549--Debarment and Suspension

Source: The provisions of Executive Order 12549 of Feb. 18, 1986, appear at 51 FR 6370, 3 CFR, 1986 Comp., p. 189, unless otherwise noted.

By the authority vested in me as President by the Constitution and laws of the United States of America, and in order to curb fraud, waste, and abuse in Federal programs, increase agency accountability, and ensure consistency among agency regulations concerning debarment and suspension of participants in Federal programs, it is hereby ordered that:

Section 1. (a) To the extent permitted by law and subject to the limitations in Section 1(c), Executive departments and agencies shall participate in a system for debarment and suspension from programs and activities involving Federal financial and nonfinancial assistance and benefits. Debarment or suspension of a participant in a program by one agency shall have government-wide effect.

(b) Activities covered by this Order include but are not limited to: grants, cooperative agreements, contracts of assistance, loans, and loan guarantees.

(c) This Order does not cover procurement programs and activities, direct Federal statutory entitlements or mandatory awards, direct awards to foreign governments or public international organizations, benefits to an individual as a personal entitlement, or Federal employment.

Sec. 2. To the extent permitted by law, Executive departments and agencies shall:

(a) Follow government-wide criteria and government-wide minimum due process procedures when they act to debar or suspend participants in affected programs.

(b) Send to the agency designated pursuant to Section 5 identifying information concerning debarred and suspended participants in affected programs, participants who have agreed to exclusion from participation, and participants declared ineligible under applicable law, including Executive Orders. This information shall be included in the list to be maintained pursuant to Section 5.

(c) Not allow a party to participate in any affected program if any Executive department or agency has debarred, suspended, or otherwise excluded (to the extent specified in the exclusion agreement) that party from participation in an affected program. An agency may grant an exception permitting a debarred, suspended, or excluded party to participate in a particular transaction upon a written determination by the agency head or authorized designee stating the reason(s) for deviating from this Presidential policy. However, I intend that exceptions to this policy should be granted only infrequently.

Sec. 3. Executive departments and agencies shall issue regulations governing their implementation of this Order that shall be consistent with the guidelines issued under Section 6. Proposed regulations shall be submitted to the Office of Management and Budget for review within four months of the date of the guidelines issued under Section 6. The Director of the Office of Management and Budget may return for reconsideration proposed regulations that the Director believes are inconsistent with the guidelines. Final regulations shall be published within twelve months of the date of the guidelines.

Sec. 4. There is hereby constituted the Interagency Committee on Debarment and Suspension, which shall monitor implementation of this Order. The Committee shall consist of representatives of agencies designated by the Director of the Office of Management and Budget.

Sec. 5. The Director of the Office of Management and Budget shall designate a Federal agency to perform the following functions: maintain a current list of all individuals and organizations excluded from program participation under this Order, periodically distribute the list to Federal agencies, and study the feasibility of automating the list; coordinate with the lead agency responsible for government-wide debarment and suspension of contractors; chair the Interagency Committee established by Section 4; and report periodically to the Director on implementation of this Order, with the first report due within two years of the date of the Order.

Sec. 6. The Director of the Office of Management and Budget is authorized to issue guidelines to Executive departments and agencies that govern which programs and activities are covered by this Order, prescribe government-wide criteria and government-wide minimum due process procedures, and set forth other related details for the effective administration of the guidelines.

Sec. 7. The Director of the Office of Management and Budget shall report to the President within three years of the date of this Order on Federal agency compliance with the Order, including the number of exceptions made under Section 2(c), and shall make recommendations as are appropriate further to curb fraud, waste, and abuse.

INSURANCE SPECIFICATIONS FOR CONTRACTORS

(present this information to your insurance agent)

The contractor shall obtain, within ten (10) working days of the award by the School Board, all of the insurance coverage's required in the project specifications. Certificates of Insurance shall be filed with and approved by the School Board **before** the contractor or any subcontractor is allowed to commence work on the project.

The School Board of Pinellas County shall be listed both as an **"Additional Insured"** and **"Certificate Holder"** on all insurance policies obtained by the contractor as the result of being awarded a contract; unless expressly prohibited by the insurance company. A written explanation of that insurance company's position will be attached to the Certificate of Insurance filed with the School Board of Pinellas County's Risk Management Department. Any requirement by the contractor's insurance company that an additional premium shall be required for the issuance of a Certificate of Insurance with the School Board of Pinellas County as an **"Additional Insured"** shall not excuse any failure to obtain the required insurance certificate. The School Board of Pinellas County requires a 10 notice of cancellation and a 30 notice for non-renewal.

The name of the insurance company(ies) listed on the Certificate of Insurance on file in the Risk Management Department shall be the same as it appears in **Best's Financial Strength Rating**. The insurance company named on the Certificate of Insurance shall have a rating of "A-V" or better as stated in **Best's Financial Strength Rating**.

1. GENERAL LIABILITY INSURANCE

The contractor shall provide the ISO Commercial General Liability Policy. The Owner shall be exempt from, and in no way liable for, any sums of money which may represent a deductible in any insurance policy. The payment of such deductible shall be the responsibility solely of the contractor or subcontractor providing such insurance.

The **Commercial General Liability Policy (CGL)** is a method of automatically providing a broad range of common coverage extensions to the CGL policy that firms often need and overlook. By having a CGL policy, it will reduce the overall cost of providing those other coverage's at a future date and allows for a wide distribution of those packaged coverage's.

The **CGL** policy shall provide coverage of at least the following items:

a) General Aggregate:

- i) **Premises Operation** which will include XCU coverage except when work does not include foundation, structural work, pressure fired vessels or materials or construction techniques which could explode.
- ii) **Independent Contractor's Protective** which provides coverage for injury to others arising out of the independent contractors work. General Contractors may opt to provide this coverage in lieu of naming the School Board of Pinellas County as "Additional Insured".
- iii) **Broad Contractual Liability** which is liability assumed by the insured under any contract agreement. This includes any oral or written contract or agreement relating to the conduct of the named insured's business. If excluded, exception for liability is assumed in an insured contract.

INSURANCE SPECIFICATIONS FOR CONTRACTORS

(present this information to your insurance agent)

b) **Products and Completed Operations**

c) **Personal & Advertising Injury Liability**

The contractor shall obtain insurance which shall at least meet the following minimum limits:

For projects/contracts under \$500,000.00:

- \$1,000,000.00 per occurrence, \$2,000,000.00 general aggregate.

For projects/contracts \$500,000.00 and over:

- \$5,000,000.00 per occurrence, \$5,000,000.00 general aggregate.

2. ***AUTOMOTIVE LIABILITY INSURANCE***

The contractor shall obtain Business Coverage Automobile Insurance which shall protect the contractor from claims for damage for personal injury, bodily injury including accidental death, as well as claims for property damages which may arise from operations under this contract whether such operations are by himself or by anyone directly or indirectly employed by him. Coverage shall include owned, non-owned, hired and rented vehicles.

The contractor shall obtain insurance which shall at least meet the following minimum limits:

- \$300,000.00 Combined Single Limit
- \$100,000.00 Bodily Injury (per person), \$300,000.00 Bodily Injury (per accident)
- \$100,000.00 Property Damage

3. ***WORKERS' COMPENSATION INSURANCE***

The contractor shall take out and maintain during the life of this Contract, Workers' Compensation Insurance for all of his employees connected with the work of this Project and, in case any work is sublet, the contractor shall require the subcontractors similarly to provide Workers' Compensation Insurance as required by FS 440 for all the latter's employees unless such employees are covered by the protection of the contractor. The following limits shall be obtained:

The contractor shall obtain insurance which shall at least meet the following minimum limits:

- State Worker's Compensation: Statutory
- Employer's Liability: \$100,000.00 Each Accident
\$500,000.00 Disease, Policy Limit
\$100,000.00 Disease, Each Employee

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BID, PERFORMANCE & PAYMENT SECURITY REQUIREMENTS

for

VENDORS & CONTRACTORS

These Bid, Performance and Payment Security requirements apply to vendors and contractors doing business with the School Board of Pinellas County, Florida (the District) and should be reviewed by your insurance agent when preparing your securities. They apply to Bid Security, Performance Bonds, Supply Bonds and Labor and Material Payment Bonds. In the event of a conflict between these requirements and the front end specifications or Special Conditions, the front end specifications or Special Conditions will take precedence. **ALL REQUIREMENTS CONTAINED HEREIN ARE DEEMED TO BE MATERIAL REQUIREMENTS BY THE DISTRICT.**

I. GENERAL GUIDELINES APPLICABLE TO ALL BONDS

In order not to delay the review and validation process of a bond, please be sure to follow the below guidelines carefully:

- A. The surety company must hold a certificate issued by the State of Florida authorizing it to write surety bonds in Florida.
- B. Each Bid Bond, Performance Bond, Supply Bond or Labor and Materials Payment Bond shall identify the School Board of Pinellas County, Florida as owner and the specific project for which the bond(s) is submitted.
- C. The printed name and title of the various persons signing or countersigning the bond should appear on the line below the person's signature.
- D. All persons signing the bond should use their full legal name. To facilitate the licensure verification process, licensed insurance agents should sign using their full first name, full middle name and last name.
- E. The agent signing the bond must hold a current Power of Attorney from the surety company issuing the bond.
- F. A copy of such Power of Attorney must be attached to the bond which shall contain no restrictions preventing payment and should specify the city and state where the agent is located.
- G. All bonds must be signed or countersigned by an insurance agent who holds a valid Florida 2-20 or 9-20 General Lines Property Casualty Insurance license (F.S. 624.425).
- H. All bonds must be signed or countersigned prior to the bid opening date and time.

II. SPECIFICATIONS FOR ALL BONDS

A. For projects of \$500,000 or more bid value:

The surety company shall be rated "A" or better as to policy holder ratings and "5" or better as to financial ratings by the current edition of the Best Rating Guide.

B. For projects less than \$500,000 bid value:

The surety company may be rated less than "A-5" by the current edition of the Best Rating Guide as long as the following conditions contained in F.S. 287.0935 are met:

1. The surety company produces evidence that it has twice the minimum surplus and capital required by the Florida Insurance Code on the date the invitation to bid was issued
2. The surety company produces evidence that it holds a currently valid license and is otherwise in compliance with the provisions of the Florida Insurance Code.
3. The surety company produces evidence that said surety company holds a currently valid certificate of authority issued by the United States Department of the Treasury under S.S. 31 United States Code 9304-9308.

The documentation specified in paragraphs II(B)(1-3) must be provided within one (1) business day upon request if it is not initially attached to the bond. Failure by the vendor or contractor to supply this documentation shall result in rejection of an otherwise acceptable bid.

BID, PERFORMANCE & PAYMENT SECURITY REQUIREMENTS *for* **VENDORS & CONTRACTORS**

III. TYPES OF SECURITIES

A. BID SECURITY

1. AMOUNT OF BID SECURITY:

Unless otherwise specified in the front end specifications or special conditions, the bid security shall be in the amount of 5% of the amount of the base bid.

2. ACCEPTABLE FORMS OF BID SECURITY:

- Bond
- Currency
- Certified Bank Check or Bank Certified Company Check
- Cashier's Check
- Money Order
- Irrevocable Letter of Credit

3. BID SECURITY REVIEW & APPROVAL:

B. The bid security must always be submitted along with the sealed bid package. Bids not including the required Bid Security will be rejected at the bid opening. Bid Securities will not be reviewed for acceptability at the time of the public bid opening. Following the bid opening, all Bid Securities will be examined for compliance with these guidelines. District staff will make a reasonable effort to verify key information. However, if information cannot be readily verified, the bond may be declared unacceptable. Bids with unacceptable Bid Security will be rejected and declared ineligible for further consideration.

1. RETURN OF BID SECURITY:

The bid security, other than bonds, will be deposited into an escrow account until the contract has been awarded to the lowest responsible and responsive bidder. The bid security of the (2) lowest responsible and responsive bidders shall be retained until such time as the contract has been executed by the lowest bidder and all required bonds have been received and determined to be acceptable. Bid security from all other bidders, other than bonds, will be returned in the form of a School Board check immediately following the award of the contract by the Board. Bid Bonds will only be returned upon request.

C. PAYMENT, PERFORMANCE OR SUPPLY SECURITY

1. AMOUNT OF PAYMENT, PERFORMANCE OR SUPPLY SECURITY:

Unless otherwise specified in the front end specifications or special conditions, the performance security shall be in the amount of 100% of the awarded, fixed contract amount or the total estimated value of the awarded contract, whichever is applicable. Bond coverage must automatically expand to include the value of all change orders which may be incorporated during the course of the project.

2. ACCEPTABLE FORMS OF PAYMENT, PERFORMANCE OR SUPPLY SECURITY:

- Bond
- U.S. Currency
- Certified Bank Check or Bank Certified Company Check
- Cashier's Check
- Money Order
- Irrevocable Letter of Credit

BID, PERFORMANCE & PAYMENT SECURITY REQUIREMENTS *for* **VENDORS & CONTRACTORS**

3. TIME LIMIT REQUIREMENTS:

When a bidder is awarded a contract by the District, the awardee shall receive written notice of award either from the Purchasing Department or from the Facilities Department. Within (10) calendar days of the issuance date of the notice of award, the awardee shall furnish to the Purchasing Department or Facilities Department, acceptable bonds as required by the bidding documents. Upon receipt of this acceptable documentation, the Purchasing Department will issue a purchase order or the Facilities Department will issue both a signed contract and a purchase order as authorization to proceed, and the awardee shall begin the performance of the contract. In the event the District determines the surety company providing the bonds is unsatisfactory or the bonds are inadequate to cover performance of the work, the awardee shall, at his expense, within five (5) working days after receipt of notice from the District, furnish bonds in such form, amount, and with a surety acceptable to the District. Upon failure to do so, the awardee shall forfeit the bid security as liquidated damages.

4. PURPOSE OF PERFORMANCE AND LABOR & MATERIAL PAYMENT BONDS:

The Performance and Labor and Material Payment bonds shall guarantee faithful performance and completion of the contract, and the payment by the awardee of all claims of all persons or corporations for work done or materials or equipment furnished in connection with the work incorporated with this contract. For construction projects or projects involving installation of equipment, these bonds shall be executed as a warranty bond for a period of at least one (1) year following the District's final acceptance of the completed project, guaranteeing compliance in accordance with the technical specifications.

(bidsec.dot) mar .5/.25/1/1 (Rev. 9/27/99)

Pinellas County District Schools

Bid Protest Procedure

A bidder who wishes to file a protest pertaining to a bid must file such notice in accordance with procedures prescribed by 120.57(3) FS enumerated below. For bids solicited by the purchasing department, the notice must be filed with the director of purchasing. For bids solicited by the facilities department, the notice must be filed with the director of facilities.

1. Any person who is adversely affected by the district decision or intended decision shall file with the director of purchasing or director of facilities a notice of protest in writing within 72 hours after the posting of the bid tabulation or after receipt of the notice of the district decision or intended decision and shall file a formal written protest within 10 days after filing the notice of protest. With respect to a protest of the specifications contained in an invitation to bid or in a request for proposals, the notice of protest shall be filed in writing within 72 hours after the receipt of notice of the project plans and specifications or intended project plans and specifications in an invitation to bid or request for proposals, and the formal written protest shall be filed within 10 days after the date the notice of protest is filed. Failure to file a notice of protest or failure to file a formal written protest shall constitute a waiver of proceedings under this chapter. The formal written protest shall state with particularity the facts and law upon which the protest is based. Saturdays, Sundays, and legal holidays shall be excluded in the computation of the 72-hour time periods provided by this paragraph.
2. Any person who files an action protesting a decision or intended decision pertaining to a bid pursuant to FS 120.57(3)(b), shall post at the time of filing the formal written protest, a bond payable to the Pinellas County School District in an amount equal to 1 percent (1%) of the total estimated contract value, but not less than \$500 nor more than \$5,000, which bond shall be conditioned upon the payment of all costs which may be adjudged against the protester in the administrative hearing in which the action is brought and in any subsequent appellate court proceeding. In lieu of a bond, a cashier's check, certified bank check, bank certified company check, money order or U.S. currency will be acceptable form of security. If, after completion of the administrative hearing process and any appellate court proceedings, the district prevails, it shall recover all costs and charges which shall be included in the final order or judgment, including charges made by the Division of Administrative Hearings, but excluding attorney's fees. Upon payment of such costs and charges by the protester, the protest security shall be returned. If the protester prevails, he or she shall recover from the district all costs and charges which shall be included in the final order of judgment, excluding attorney's fees.
3. Upon receipt of the formal written protest and protest bond which has been timely filed, the district shall stop the bid solicitation process or the contract award process until the subject of the protest is resolved by final district action, unless the Superintendent sets forth in writing particular facts and circumstances which require the continuance of the bid solicitation process or the contract award process without delay in order to avoid an immediate and serious danger to the public health, safety, or welfare.
4.
 - a) The district shall provide an opportunity to resolve the protest by mutual agreement between the parties within 7 days, excluding Saturdays, Sundays, and legal holidays, after receipt of a formal written protest.
 - b) If the subject of a protest is not resolved by mutual agreement within 7 days, excluding Saturdays, Sundays, and legal holidays, after receipt of the formal written protest, and if there is no disputed issue of material fact, an informal proceeding shall be conducted pursuant to 120.57(2) FS and applicable district rules before a person whose qualifications have been prescribed by rules of the district.
 - c) If the subject of a protest is not resolved by mutual agreement within 7 days, excluding Saturdays, Sundays, and legal holidays, after receipt of the formal written protest, and if there is a disputed issue of material fact, the district shall refer the protest to the Division of Administrative Hearings for proceedings under 120.57(1) FS.
5. Upon receipt of a formal written protest referred pursuant to this subsection, the director of the Division of Administrative Hearings shall expedite the hearing and assign an administrative law judge who shall commence a hearing within 30 days after the receipt of the formal written protest by the division and enter a recommended order within 30 days after the hearing or within 30 days after receipt of the hearing transcript by the administrative law judge, whichever is later. Each party shall be allowed 10 days in which to submit written exceptions to the recommended order. A final order shall be entered by the district within 30 days of the entry of a recommended order. The provisions of this paragraph may be waived upon stipulation by all parties.
6. In a competitive-procurement protest, no submissions made after the bid or proposal opening amending or supplementing the bid or proposal shall be considered. Unless otherwise provided by statute, the burden of proof shall rest with the party protesting the proposed district action. In a competitive-procurement protest, other than a rejection of all bids, the administrative law judge shall conduct a de novo proceeding to determine whether the district's proposed action is contrary to the district's governing statutes, the district's rules or policies, or the bid or proposal specifications. The standard of proof for such proceedings shall be whether the proposed district action was clearly erroneous, contrary to competition, arbitrary, or capricious. In any bid-protest proceeding contesting an intended district action to reject all bids, the standard of review by an administrative law judge shall be whether the district's intended action is illegal, arbitrary, dishonest, or fraudulent.

Exhibit 3

Schools and Libraries Universal Service Description of Services Requested and Certification Form 470

Estimated Average Burden Hours per Response: 3 hours

This form is designed to help you describe the eligible services you seek so that this data can be posted on the Fund Administrator Internet Site and interested service providers can identify you as a potential customer and compete to serve you.

Please read instructions before beginning this form.

Form 470 Application Number: 579030001297768	Applicant's Form Identifier: UPS 2015
Application Status: CERTIFIED	Posting Date: 01/16/2015
Allowable Contract Date: 02/13/2015	Certification Received Date: 01/16/2015

Block 1: Applicant Address and Information

1 Name of Applicant:
PINELLAS COUNTY SCHOOLS

2 Funding Year: 2015 (Funding years run from July 1 through the following June 30)

3 Entity Number: 127804

4a Street Address, P.O.Box, or Route Number:

301 4TH ST SW, PO BOX 2942

City: LARGO State: FL Zip Code: 33779 -2942

4b Telephone Number: (727) 588 -6000

4c Fax Number: (727) 588 -5179

5a Eligible Entities That Will Receive Services:

Check the ONE choice in **5a** that best describes the eligible entities that will receive the services described in this form. You will then list in Item **15** the entity/entities that will pay the bills for these services.

- ☐ Individual School (individual public or non-public school)
- ☒ School District (LEA; public or non-public [e.g., diocesan] local district representing multiple schools)
- ☐ Library (including library system, library outlet/branch or library consortium as defined under LSTA)
- ☐ Consortium (intermediate service agencies, states, state networks, consortia of schools and/or libraries)
- ☐ Statewide application for (enter 2-letter state code)

representing (check all that apply)

- ☐ All public schools/districts in the state
- ☐ All non-public schools in the state
- ☐ All libraries in the state

5b Recipient(s) of Services - Check all that apply:

- ☐ Private ☒ Public ☒ Charter
- ☐ Tribal ☐ Head Start ☐ State Agency

5c Number of eligible entities for which services are sought: 285

Block 1: Applicant Address and Information (continued)

6a Contact Person's Name:

Shannon Eddinger

If the Contact Person's Street Address is the same as **Item 4a** above, check here. ☐ If not, complete Item 6b.

6b Street Address, P.O.Box, or Route Number:

NOTE: USAC will use this address to mail correspondence

301 4TH ST SW, PO BOX 2942

City: LARGO State: FL Zip Code: 33779 -2942

Check the box next to your preferred mode of contact and provide your contact information. One box **MUST** be checked and an entry provided.

☐ **6c** Telephone Number: (727) 588 -6000

☐ **6d** Fax Number: (727) 588 -5179

☒ **6e** E-Mail Address: eddingersh@pcsb.org

Re-enter E-mail Address: eddingersh@pcsb.org

If a consultant is assisting you with your application process, please complete Item 7 below:

7 Consultant Name:

Name of Consultant's Employer:

Consultant's Street Address:

City: State: Zip Code:

Consultant's Telephone Number: Ext.

Consultant's Fax Number:

Consultant's E-mail Address:

Re-enter E-mail Address:

Consultant Registration Number:

Entity Number: 127804	Applicant's Form Identifier: UPS 2015
Contact Person: Shannon Eddinger	Phone Number: (727) 588-6000

Block 2: Summary Description of Needs or Services Requested

8 Category One: Internet Access and/or Telecommunications

If you check YES to indicate you have a Request for Proposals (RFP) that specifies the services you are seeking, your RFP must be available to all interested bidders for at least 28 days. If your RFP is not available to all interested bidders, or if you check NO and you have or intend to have an RFP, you risk denial of your funding requests.

- a** ☐ YES, I have released or intend to release an RFP for one or more of these services. It is available or will become available on the Internet at:
or via (check one) ☐ the contact person in Item 6 or ☐ the contact person listed in Item 12

Your RFP Identifier:

- b** ☐ NO, I have not released and do not intend to release an RFP for any of these services.

Whether you check YES or NO, you must list below the Internet access and/or telecommunications you seek. Specify each service (e.g., voice service, monthly Internet access service, etc) and quantity and/or capacity (e.g., for voice service, 20 existing lines plus 10 new ones, or for monthly Internet access service, for 500 users).

9 [Reserved]

Entity Number: 127804	Applicant's Form Identifier: UPS 2015
Contact Person: Shannon Eddinger	Phone Number: (727) 588-6000

10 Category Two: Internal Connections and Managed Internal Broadband Services

If you check YES to indicate you have a Request for Proposals (RFP) that specifies the services you are seeking, your RFP must be available to all interested bidders for at least 28 days. If your RFP is not available to all interested bidders, or if you check NO and you have or intend to have an RFP, you risk denial of your funding requests.

a ☒ YES, I have released or intend to release an RFP for one or more of these services. It is available or will become available on the Internet at: <https://vendorapp.pinellas.k12.fl.us>
or via (check one) ☐ the contact person in Item 6 or ☐ the contact person listed in Item 12

Your RFP Identifier: Bid No: 15-205-150; Uninterruptable Power Supplies

b ☐ NO, I have not released and do not intend to release an RFP for any of these services.

Whether you check YES or NO, you must list below the Internal Connections and Managed Internal Broadband Services you seek. Specify each service (e.g., a router, hub and cabling) and quantity and/or capacity (e.g., connecting 1 classroom of 30 students).

Service	Quantity and/or Capacity
UPS for MDF and IDF closets, various models as specified in RFP. Please see RFP for full details, below is a general outline only:	see below:
Model	Est. Qty.
5P750	20
5P1000	30
5PX1500RTN	75
5PX2200RTN	125
5PX3000RTN	5
Plus accessories	As shown in RFP

11 Category Two: Basic Maintenance of Internal Connections

If you check YES to indicate you have a Request for Proposals (RFP) that specifies the services you are seeking, your RFP must be available to all interested bidders for at least 28 days. If your RFP is not available to all interested bidders, or if you check NO and you have or intend to have an RFP, you risk denial of your funding requests.

a ☐ YES, I have released or intend to release an RFP for these services. It is available or will become available on the Internet at:
or via (check one) ☐ the contact person in Item 6 or ☐ the contact person listed in Item 12

Your RFP Identifier:

b ☐ NO, I have not released and do not intend to release an RFP for these services.

Whether you check YES or NO, you must list below the Basic Maintenance services you seek. Specify each service (e.g., basic maintenance of routers) and quantity and/or capacity (e.g., for 10 routers).

Entity Number: 127804		Applicant's Form Identifier: UPS 2015					
Contact Person: Shannon Eddinger		Phone Number: (727) 588-6000					
<p>12 (Optional) Please name the person on your staff or project who can provide additional technical details or answer specific questions from service providers about the services you are seeking. This person does not need to be the contact person(s) listed in Item 6 nor the Authorized Person who signs this form.</p> <p>Name:</p> <p>Title:</p> <p>Telephone Number:</p> <p>Fax Number:</p> <p>Email Address:</p> <p>Re-enter E-mail Address:</p>							
<p>13 <input checked="" type="checkbox"/> Check this box if there are any restrictions imposed by state or local laws or regulations on how or when service providers may contact you or on other bidding procedures. Please describe below any such restrictions or procedures and/or provide an Internet address where they are posted and a contact name and telephone number.</p> <p><input type="checkbox"/> Check this box if no state and local procurement/competitive bidding requirements apply to the procurement of services sought on this FCC Form 470.</p> <p>If you are requesting services for a funding year for which an FCC Form 470 cannot yet be filed online, include that information here.</p> <p>The Pinellas County School Board follows school board policy No. 6320 regarding Purchasing and Bidding and the establishment of the district's competitive bid threshold. To download copies of the bid documents you must be registered with the district. To register, go to https://vendorapp.pinellas.k12.fl.us. For further information you may contact Mark Shuman, Manager, Purchasing, 301 4th St. SW, Largo, FL 33770-3536 phone 727-588-6179, fax 727-588-6129 or email shumanma@pcsb.org</p>							
Block 3:							
14. [Reserved]							
Entity Number: 127804		Applicant's Form Identifier: UPS 2015					
Contact Person: Shannon Eddinger		Contact Phone Number: (727) 588-6000					
Block 4: Recipients of Service							
<p>15 Billed Entities</p> <p>List the entity/entities that will be paying the bills directly to the provider for the services requested in this form. These are known as Billed Entities. At least one line of this item must be completed. If a Billed Entity cited on your FCC Form 471 is not listed below, funding may be denied for the funding requests associated with this FCC Form 470. Attach additional pages if needed.</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 20%;">Entity Number</th> <th style="width: 80%;">Entity Name</th> </tr> </thead> <tbody> <tr> <td>127804</td> <td>PINELLAS COUNTY SCHOOLS</td> </tr> </tbody> </table>				Entity Number	Entity Name	127804	PINELLAS COUNTY SCHOOLS
Entity Number	Entity Name						
127804	PINELLAS COUNTY SCHOOLS						
Entity Number: 127804		Applicant's Form Identifier: UPS 2015					
Contact Person: Shannon Eddinger		Contact Phone Number: (727) 588-6000					
Block 5: Certifications and Signature							
<p>16 I certify that the applicant includes: (Check one or both.)</p> <p>a <input checked="" type="checkbox"/> schools under the statutory definitions of elementary and secondary schools found in the No Child Left Behind Act of 2001, 20 U.S.C. §§ 7801 (18) and (38), that do not operate as for-profit businesses, and do not have endowments exceeding \$50 million; and/or</p> <p>b <input type="checkbox"/> libraries or library consortia eligible for assistance from a State library administrative agency under the Library Services and Technology Act of 1996 that do not operate as for-profit businesses and whose budgets are completely separate from any schools (including, but not limited to elementary and secondary schools, colleges, and universities).</p>							
17 [Reserved]							
<p>18 <input checked="" type="checkbox"/> I certify that I will post my FCC Form 470 and (if applicable) make any applicable RFP available for at least 28 days before considering all bids received and selecting a service provider. I certify that all bids submitted will be carefully considered and the bid selected will be for the most cost-effective service or equipment offering, with price being the primary factor, and will be the most cost-effective means of meeting educational needs and technology goals.</p>							
<p>19 <input checked="" type="checkbox"/> I certify that I will retain required documents for a period of at least 10 years (or whatever retention period is required by the rules in effect at the time of this certification) after the last day of service delivered. I certify that I will retain all documents necessary to demonstrate compliance with the statute and Commission rules regarding the form for, receipt of, and delivery of services receiving schools and libraries discounts. I acknowledge that I may be audited pursuant to participation in the schools and libraries program.</p>							
<p>20 <input checked="" type="checkbox"/> I certify that the services the applicant purchases at discounts provided by 47 U.S.C. § 254 will be used primarily for educational purposes, see 47 C.F.R. § 54.500, and will not be sold, resold or transferred in consideration for money or any other thing of value, except as permitted by the Commission's rules at 47 C.F.R. § 54.513. Additionally, I certify that the entity or entities listed on this form have not received anything of value or a promise of anything of value, other than services and equipment sought by means of this form, from the service provider, or any representative or agent thereof or any consultant in connection with this request for services.</p>							
<p>21 <input checked="" type="checkbox"/> I acknowledge that support under this support mechanism is conditional upon the school(s) and/or library(ies) I represent securing access, separately or through this program, to all of the resources, including computers, training, software, internal connections, maintenance, and electrical capacity necessary to use the services purchased effectively. I recognize that some of the aforementioned resources are not eligible for support. I certify that I have considered what financial resources should be available to cover these costs.</p>							
<p>22 <input checked="" type="checkbox"/> I certify that I am authorized to procure eligible services for the eligible entity(ies). I certify that I am authorized to submit this request on behalf of the eligible entity(ies) listed on this form, that I have examined this request, and to the best of my knowledge, information, and belief, all statements of fact contained herein are true.</p>							
<p>23 <input checked="" type="checkbox"/> I certify that I have reviewed all applicable FCC, state, and local procurement/competitive bidding requirements and that I have complied with them. I acknowledge that persons willfully making false statements on this form may be punished by fine or forfeiture, under the Communications Act, 47 U.S.C. §§ 502, 503(b), or fine or imprisonment under Title 18 of the United States Code, 18 U.S.C. § 1001.</p>							
<p>24 <input checked="" type="checkbox"/> I acknowledge that FCC rules provide that persons who have been convicted of criminal violations or held civilly liable for certain acts arising from their participation in the schools and libraries support mechanism are subject to suspension and debarment from the program.</p>							
Entity Number: 127804		Applicant's Form Identifier: UPS 2015					
Contact Person: Shannon Eddinger		Contact Phone Number: (727) 588-6000					
25 Signature of authorized person: <input checked="" type="checkbox"/>		26 Date: 01/16/2015					

27a Printed name of authorized person:

Kevin Smith, CPA

27b Title or position of authorized person:

Asst. Superintendent, Finance and Busine



Check here if the consultant in Item 7 is the Authorized Person.

27c Street Address, P.O. Box, Route Number, City, State, Zip Code:

301 4TH ST SW

City: LARGO

State: FL

Zip Code: 33770-3536

27d Telephone Number of Authorized Person:

(727) 588-6172

27e Fax Number of Authorized Person:

(727) 588-6525

27f E-mail Address of Authorized Person:

smithk@pcsb.org

Re-enter E-mail Address:

smithk@pcsb.org

27g Name of Authorized Person's Employer:

Pinellas County Schools

Service provider involvement with preparation or certification of an FCC Form 470
can taint the competitive bidding process and result in the denial of funding requests.
For more information, refer to the Schools and Libraries area of the USAC web site at
www.usac.org/sl or call the SLD Client Service Bureau at 1-888-203-8100.

Entity Number: 127804	Applicant's Form Identifier: UPS 2015
Contact Person: Shannon Eddinger	Phone Number: (727) 588-6000

NOTICE: In accordance with Section 54.503 of the Federal Communications Commission's rules, certain schools and libraries ordering services that are eligible for and seeking universal service discounts must file this Description of Services Requested and Certification Form (FCC Form 470) with the Universal Service Administrator. 47 C.F.R. § 54.503(c). The collection of information stems from the Commission's authority under Section 254 of the Communications Act of 1934, as amended. 47 U.S.C. § 254. The data in the report will be used to ensure that schools and libraries comply with the competitive bidding requirement contained in 47 C.F.R. § 54.503. Schools and libraries must file this form themselves or as part of a consortium.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The FCC is authorized under the Communications Act of 1934, as amended, to collect the information we request in this form. We will use the information you provide to determine whether approving this application is in the public interest. If we believe there may be a violation or a potential violation of any applicable statute, regulation, rule or order, your application may be referred to the Federal, state, or local agency responsible for investigating, prosecuting, enforcing, or implementing the statute, rule, regulation or order. In certain cases, the information in your application may be disclosed to the Department of Justice or a court or adjudicative body when (a) the FCC; or (b) any employee of the FCC; or (c) the United States Government is a party of a proceeding before the body or has an interest in the proceeding. In addition, information provided in or submitted with this form or in response to subsequent inquiries may also be subject to disclosure consistent with the Communications Act of 1934, FCC regulations, the Freedom of Information Act, 5 U.S.C. § 552, or other applicable law.

If you owe a past due debt to the federal government, the information you provide may also be disclosed to the Department of the Treasury Financial Management Service, other Federal agencies and/or your employer to offset your salary, IRS tax refund or other payments to collect that debt. The FCC may also provide the information to these agencies through the matching of computer records when authorized.

If you do not provide the information we request on the form, the FCC may delay processing of your application or may return your form without action.

The foregoing Notice is required by the Paperwork Reduction Act of 1995, Pub. L. No. 104-13, 44 U.S.C. § 3501, *et seq.*

Public reporting burden for this collection of information is estimated to average 3 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, completing, and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the reporting burden to the Federal Communications Commission, Performance Evaluation and Records Management, Washington, DC 20554.

FCC Form 470
October 2014[New Search](#)[Return To Search Results](#)

Exhibit 4

Schools and Libraries Universal Service Description of Services Requested and Certification Form 470

Estimated Average Burden Hours per Response: 3 hours

This form is designed to help you describe the eligible services you seek so that this data can be posted on the Fund Administrator Internet Site and interested service providers can identify you as a potential customer and compete to serve you.

Please read instructions before beginning this form.

Form 470 Application Number: 518210001301174	Applicant's Form Identifier: Wireless Network Equip & Install 2015
Application Status: CERTIFIED	Posting Date: 01/20/2015
Allowable Contract Date: 02/17/2015	Certification Received Date: 01/21/2015

Block 1: Applicant Address and Information

1 Name of Applicant:
PINELLAS COUNTY SCHOOLS

2 Funding Year: 2015 (Funding years run from July 1 through the following June 30)

3 Entity Number: 127804

4a Street Address, P.O.Box, or Route Number:
301 4TH ST SW, PO BOX 2942

City: LARGO State: FL Zip Code: 33779 -2942

4b Telephone Number: (727) 588 -6000

4c Fax Number: (727) 588 -5179

5a Eligible Entities That Will Receive Services:

Check the ONE choice in **5a** that best describes the eligible entities that will receive the services described in this form. You will then list in Item **15** the entity/entities that will pay the bills for these services.

☐ Individual School (individual public or non-public school)

☒ School District (LEA; public or non-public [e.g., diocesan] local district representing multiple schools)

☐ Library (including library system, library outlet/branch or library consortium as defined under LSTA)

☐ Consortium (intermediate service agencies, states, state networks, consortia of schools and/or libraries)

☐ Statewide application for (enter 2-letter state code)

representing (check all that apply)

☐ All public schools/districts in the state

☐ All non-public schools in the state

☐ All libraries in the state

5b Recipient(s) of Services - Check all that apply:

☐ Private ☒ Public ☒ Charter

☐ Tribal ☐ Head Start ☐ State Agency

5c Number of eligible entities for which services are sought: 285

Block 1: Applicant Address and Information (continued)

6a Contact Person's Name:
Shannon Eddinger

If the Contact Person's Street Address is the same as **Item 4a** above, check here. ☐ If not, complete Item 6b.

6b Street Address, P.O.Box, or Route Number:
NOTE: USAC will use this address to mail correspondence
301 4TH ST SW, PO BOX 2942

City: LARGO State: FL Zip Code: 33779 -2942

Check the box next to your preferred mode of contact and provide your contact information. One box **MUST** be checked and an entry provided.

☐ **6c** Telephone Number: (727) 588 -6000 Ext. 1815

☐ **6d** Fax Number: (727) 588 -5179

☒ **6e** E-Mail Address: eddingersh@pcsb.org

Re-enter E-mail Address: eddingersh@pcsb.org

If a consultant is assisting you with your application process, please complete Item 7 below:

7 Consultant Name:

Name of Consultant's Employer:

Consultant's Street Address:

City: State: Zip Code:

Consultant's Telephone Number: Ext.

Consultant's Fax Number:

Consultant's E-mail Address:

Re-enter E-mail Address:

Consultant Registration Number:

Entity Number: 127804	Applicant's Form Identifier: Wireless Network Equip & Install 2015
Contact Person: Shannon Eddinger	Phone Number: (727) 588-6000

Block 2: Summary Description of Needs or Services Requested

8 Category One: Internet Access and/or Telecommunications

If you check YES to indicate you have a Request for Proposals (RFP) that specifies the services you are seeking, your RFP must be available to all interested bidders for at least 28 days. If your RFP is not available to all interested bidders, or if you check NO and you have or intend to have an RFP, you risk denial of your funding requests.

- a** ☐ YES, I have released or intend to release an RFP for one or more of these services. It is available or will become available on the Internet at:
or via (check one) ☐ the contact person in Item 6 or ☐ the contact person listed in Item 12

Your RFP Identifier:

- b** ☐ NO, I have not released and do not intend to release an RFP for any of these services.

Whether you check YES or NO, you must list below the Internet access and/or telecommunications you seek. Specify each service (e.g., voice service, monthly Internet access service, etc) and quantity and/or capacity (e.g., for voice service, 20 existing lines plus 10 new ones, or for monthly Internet access service, for 500 users).

9 [Reserved]

Entity Number: 127804	Applicant's Form Identifier: Wireless Network Equip & Install 2015
Contact Person: Shannon Eddinger	Phone Number: (727) 588-6000
10 Category Two: Internal Connections and Managed Internal Broadband Services	
<i>If you check YES to indicate you have a Request for Proposals (RFP) that specifies the services you are seeking, your RFP must be available to all interested bidders for at least 28 days. If your RFP is not available to all interested bidders, or if you check NO and you have or intend to have an RFP, you risk denial of your funding requests.</i>	
a <input checked="" type="checkbox"/> YES, I have released or intend to release an RFP for one or more of these services. It is available or will become available on the Internet at: https://vendorapp.pinellas.k12.fl.us or via (check one) <input type="checkbox"/> the contact person in Item 6 or <input type="checkbox"/> the contact person listed in Item 12 Your RFP Identifier: Bid No: 15-205-154 Wireless Network Equipment and	
b <input type="checkbox"/> NO, I have not released and do not intend to release an RFP for any of these services. Whether you check YES or NO, you must list below the Internal Connections and Managed Internal Broadband Services you seek. Specify each service (e.g., a router, hub and cabling) and quantity and/or capacity (e.g., connecting 1 classroom of 30 students).	
Service	Quantity and/or Capacity
Enterprise wireless system: Juniper & Aruba or Cisco. Pls see RFP for details.	\$900,000.00 for initial contract period.
11 Category Two: Basic Maintenance of Internal Connections	
<i>If you check YES to indicate you have a Request for Proposals (RFP) that specifies the services you are seeking, your RFP must be available to all interested bidders for at least 28 days. If your RFP is not available to all interested bidders, or if you check NO and you have or intend to have an RFP, you risk denial of your funding requests.</i>	
a <input type="checkbox"/> YES, I have released or intend to release an RFP for these services. It is available or will become available on the Internet at: or via (check one) <input type="checkbox"/> the contact person in Item 6 or <input type="checkbox"/> the contact person listed in Item 12 Your RFP Identifier:	
b <input type="checkbox"/> NO, I have not released and do not intend to release an RFP for these services. Whether you check YES or NO, you must list below the Basic Maintenance services you seek. Specify each service (e.g., basic maintenance of routers) and quantity and/or capacity (e.g., for 10 routers).	

Entity Number: 127804	Applicant's Form Identifier: Wireless Network Equip & Install 2015
Contact Person: Shannon Eddinger	Phone Number: (727) 588-6000

12 (Optional) Please name the person on your staff or project who can provide additional technical details or answer specific questions from service providers about the services you are seeking. This person does not need to be the contact person(s) listed in Item 6 nor the Authorized Person who signs this form.

Name:

Title:

Telephone Number:

Fax Number:

Email Address:

Re-enter E-mail Address:

13 ☒ Check this box if there are any restrictions imposed by state or local laws or regulations on how or when service providers may contact you or on other bidding procedures. Please describe below any such restrictions or procedures and/or provide an Internet address where they are posted and a contact name and telephone number.

☐ Check this box if no state and local procurement/competitive bidding requirements apply to the procurement of services sought on this FCC Form 470.

If you are requesting services for a funding year for which an FCC Form 470 cannot yet be filed online, include that information here.

The Pinellas County School Board follows school board policy No. 6320 regarding Purchasing and Bidding and the establishment of the district's competitive bid threshold. To download copies of the bid documents you must be registered with the district. To register, go to <https://vendorapp.pinellas.k12.fl.us>. For further information you may contact Mark Shuman, Manager, Purchasing, 301 4th St. SW, Largo, FL 33770-3536 phone 727-588-6179, fax 727-588-6129 or email shumanma@pcsb.org

Block 3:

14. [Reserved]

Entity Number: 127804	Applicant's Form Identifier: Wireless Network Equip & Install 2015
Contact Person: Shannon Eddinger	Contact Phone Number: (727) 588-6000

Block 4: Recipients of Service

15 Billed Entities

List the entity/entities that will be paying the bills directly to the provider for the services requested in this form. These are known as Billed Entities. At least one line of this item must be completed. If a Billed Entity cited on your FCC Form 471 is not listed below, funding may be denied for the funding requests associated with this FCC Form 470. Attach additional pages if needed.

Entity Number	Entity Name
127804	PINELLAS COUNTY SCHOOLS

Entity Number: 127804	Applicant's Form Identifier: Wireless Network Equip & Install 2015
Contact Person: Shannon Eddinger	Contact Phone Number: (727) 588-6000

Block 5: Certifications and Signature

16 I certify that the applicant includes: (Check one or both.)

a ☒ schools under the statutory definitions of elementary and secondary schools found in the **No Child Left Behind Act of 2001, 20 U.S.C. §§ 7801 (18) and (38)**, that do not operate as for-profit businesses, and do not have endowments exceeding \$50 million; and/or

b ☐ libraries or library consortia eligible for assistance from a State library administrative agency under the Library Services and Technology Act of 1996 that do not operate as for-profit businesses and whose budgets are completely separate from any schools (including, but not limited to elementary and secondary schools, colleges, and universities).

17 [Reserved]

18 ☒ I certify that I will post my FCC Form 470 and (if applicable) make any applicable RFP available for at least 28 days before considering all bids received and selecting a service provider. I certify that all bids submitted will be carefully considered and the bid selected will be for the most cost-effective service or equipment offering, with price being the primary factor, and will be the most cost-effective means of meeting educational needs and technology goals.

19 ☒ I certify that I will retain required documents for a period of at least 10 years (or whatever retention period is required by the rules in effect at the time of this certification) after the last day of service delivered. I certify that I will retain all documents necessary to demonstrate compliance with the statute and Commission rules regarding the form for, receipt of, and delivery of services receiving schools and libraries discounts. I acknowledge that I may be audited pursuant to participation in the schools and libraries program.

20 ☒ I certify that the services the applicant purchases at discounts provided by 47 U.S.C. § 254 will be used primarily for educational purposes, see 47 C.F.R. § 54.500, and will not be sold, resold or transferred in consideration for money or any other thing of value, except as permitted by the Commission's rules at 47 C.F.R. § 54.513. Additionally, I certify that the entity or entities listed on this form have not received anything of value or a promise of anything of value, other than services and equipment sought by means of this form, from the service provider, or any representative or agent thereof or any consultant in connection with this request for services.

21 ☒ I acknowledge that support under this support mechanism is conditional upon the school(s) and/or library(ies) I represent securing access, separately or through this program, to all of the resources, including computers, training, software, internal connections, maintenance, and electrical capacity necessary to use the services purchased effectively. I recognize that some of the aforementioned resources are not eligible for support. I certify that I have considered what financial resources should be available to cover these costs.

22 ☒ I certify that I am authorized to procure eligible services for the eligible entity(ies). I certify that I am authorized to submit this request on behalf of the eligible entity(ies) listed on this form, that I have examined this request, and to the best of my knowledge, information, and belief, all statements of fact contained herein are true.

23 ☒ I certify that I have reviewed all applicable FCC, state, and local procurement/competitive bidding requirements and that I have complied with them. I acknowledge that persons willfully making false statements on this form may be punished by fine or forfeiture, under the Communications Act, 47 U.S.C. §§ 502, 503(b), or fine or imprisonment under Title 18 of the United States Code, 18 U.S.C. § 1001.

24 ☒ I acknowledge that FCC rules provide that persons who have been convicted of criminal violations or held civilly liable for certain acts arising from their participation in the schools and libraries support mechanism are subject to suspension and debarment from the program.

Entity Number: 127804	Applicant's Form Identifier: Wireless Network Equip & Install 2015
Contact Person: Shannon Eddinger	Contact Phone Number: (727) 588-6000

25 Signature of authorized person: <input checked="" type="checkbox"/>	26 Date: 01/21/2015
---	----------------------------

- 27a** Printed name of authorized person:
Kevin Smith, CPA
- 27b** Title or position of authorized person:
Asst. Superintendent, Finance and Busine
☐ Check here if the consultant in Item 7 is the Authorized Person.
- 27c** Street Address, P.O. Box, Route Number, City, State, Zip Code:
301 4th Street SW

City: LARGO
State: FL
Zip Code: 33770-3536
- 27d** Telephone Number of Authorized Person:
(727) 588-6172
- 27e** Fax Number of Authorized Person:
(727) 588-6525
- 27f** E-mail Address of Authorized Person:
smithk@pcsb.org

Re-enter E-mail Address:
smithk@pcsb.org
- 27g** Name of Authorized Person's Employer:
Pinellas County Schools

Service provider involvement with preparation or certification of an FCC Form 470
can taint the competitive bidding process and result in the denial of funding requests.
For more information, refer to the Schools and Libraries area of the USAC web site at
www.usac.org/sl or call the SLD Client Service Bureau at 1-888-203-8100.

Entity Number: 127804	Applicant's Form Identifier: Wireless Network Equip & Install 2015
Contact Person: Shannon Eddinger	Phone Number: (727) 588-6000

NOTICE: In accordance with Section 54.503 of the Federal Communications Commission's rules, certain schools and libraries ordering services that are eligible for and seeking universal service discounts must file this Description of Services Requested and Certification Form (FCC Form 470) with the Universal Service Administrator. 47 C.F.R. § 54.503(c). The collection of information stems from the Commission's authority under Section 254 of the Communications Act of 1934, as amended. 47 U.S.C. § 254. The data in the report will be used to ensure that schools and libraries comply with the competitive bidding requirement contained in 47 C.F.R. § 54.503. Schools and libraries must file this form themselves or as part of a consortium.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The FCC is authorized under the Communications Act of 1934, as amended, to collect the information we request in this form. We will use the information you provide to determine whether approving this application is in the public interest. If we believe there may be a violation or a potential violation of any applicable statute, regulation, rule or order, your application may be referred to the Federal, state, or local agency responsible for investigating, prosecuting, enforcing, or implementing the statute, rule, regulation or order. In certain cases, the information in your application may be disclosed to the Department of Justice or a court or adjudicative body when (a) the FCC; or (b) any employee of the FCC; or (c) the United States Government is a party of a proceeding before the body or has an interest in the proceeding. In addition, information provided in or submitted with this form or in response to subsequent inquiries may also be subject to disclosure consistent with the Communications Act of 1934, FCC regulations, the Freedom of Information Act, 5 U.S.C. § 552, or other applicable law.

If you owe a past due debt to the federal government, the information you provide may also be disclosed to the Department of the Treasury Financial Management Service, other Federal agencies and/or your employer to offset your salary, IRS tax refund or other payments to collect that debt. The FCC may also provide the information to these agencies through the matching of computer records when authorized.

If you do not provide the information we request on the form, the FCC may delay processing of your application or may return your form without action.

The foregoing Notice is required by the Paperwork Reduction Act of 1995, Pub. L. No. 104-13, 44 U.S.C. § 3501, *et seq.*

Public reporting burden for this collection of information is estimated to average 3 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, completing, and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the reporting burden to the Federal Communications Commission, Performance Evaluation and Records Management, Washington, DC 20554.

FCC Form 470
October 2014[New Search](#)[Return To Search Results](#)

Exhibit 5



Vision:
100% Student Success

Mission:
"Educate and prepare each
student for college, career
and life."

ADMINISTRATION BUILDING
301 Fourth St. SW
P.O. Box 2942
Largo, FL 33779-2942
Ph. (727) 588-6000

**SCHOOL BOARD OF
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Linda S. Lerner
Dr. Ken Peluso

Superintendent
Michael A. Grego, Ed.D.

Today's Date: 10/26/2016

Response Due Date: 10/27/2016

Contact Name: Shannon Eddinger

Applicant Name: PINELLAS COUNTY SCHOOLS

FCC Form 471 Application Number: 161044588, 161018052, 161039622, 161044662,
161044688, 161050304, 161055409

Mr. Casavant,

In response to the notification of denial of App 161044688 FRN# 1699099247, App 161044662, FRN1699099236 and App 161050304 FRN 1699122165 not containing the words "or equivalent".

In paragraph h of the general terms and conditions on page two of each bid:

h) Item Specifications: Specifications in this document may reference specific manufacturers' products and list their model or part numbers, followed by the words "or equal" or "approved brands". **Unless the words "only" or "No Substitutes" is used in place of "or equal", these references are intended to establish a quality and performance standard only. Anything listed, herein, of a proprietary nature is done so without express knowledge or intent to exclude other manufacturers' products from consideration.**

i) Any item bid as an alternate which lacks sufficient descriptive literature or technical information to enable a complete comparative analysis, may prevent its consideration.

ii) If the bidder does not clearly state in their bid proposal that an item proposed is an alternate to that specified, the bidder must furnish the specified item upon receipt of a purchase order or else be declared in breach of contract.

All RFPs/bid request contain this language. Our specifications did not specify "only" or "no substitutes" so we would have accepted any equal alternate properly submitted.

David Galvin

David Galvin

Director, Networking and Telecommunications
Pinellas County Schools
Technology and Information Systems (TIS)
Direct Dial 727-588-6059
PCS extension 80046059

Exhibit 6

FY17 UPS - 171036180

Competitive Bidding

Issue

Application# 171032303- FRN 1799070648:

It was determined that Application# 171032303-FRN 1799070648 will be denied because the FCC Form 470 # 518210001301174 / RFP# 15-205-154 that you have cited contains a particular manufacturer's name, brand, product and service but did not include the words "or equivalent" to describe the requested products and services. Since service requested here is from multi-year contract requested in FY 2016 FCC form 471 Application# 161044662 – FRN 1699099236 and FY 2015 FCC form 471 Application# 1043334 – FRN 2845032, FY 2016 FRN 1699099236 and FY 2015 FRN 2845032 will be denied and will be processed to adjust the commitment.

For additional information on the competitive bidding process, please refer to the USAC website at: <http://www.usac.org/sl/applicants/step01/default.aspx>. If the entire FRN should not be denied and you have alternative information, please provide the supporting documentation. If you would like to provide any additional explanation to support your position, type your explanation and attach the explanation and/or documentation into your response by using the Add Document button. If you agree with the proposed action, click the "Submit" button to clear this item from your Pending Inquiries.

Application# 171036180 - FRN 1799080957: **UPS**

It was determined that Application# 171036180 - FRN 1799080957 will be denied because the FCC Form 470 # 579030001297768 / RFP# 15-205-150 that you have cited contains a particular manufacturer's name, brand, product and service but did not include the words "or equivalent" to describe the requested products and services. Since service requested here is from multi-year contract requested in FY 2016 FCC form 471 Application# 161050304 - FRN 1699122165 and FY 2015 FCC form 471 Application# 1044716 – FRN 2849807, FY 2016 FRN 1699122165 and FY 2015 FRN 2849807 will be denied and will be processed to adjust the commitment.

For additional information on the competitive bidding process, please refer to the USAC website at: <http://www.usac.org/sl/applicants/step01/default.aspx>. If the entire FRN should not be denied and you have alternative information, please provide the supporting documentation. If you would like to provide any additional explanation to support your position, type your explanation and attach the explanation and/or documentation into your response by using the Add Document button. If you agree with the proposed action, click the "Submit" button to clear this item from your Pending Inquiries.

+Add Document

Active Uploaded Files

Save & Close

Submit

Exhibit 7



Vision:
100% Student Success

Mission:
"Educate and prepare each student for college, career and life."

Today's Date: 10/09/2017
Response Due Date: 10/16/2017
Contact Name: Shannon Eddinger
Applicant Name: PINELLAS COUNTY SCHOOLS
FCC Form 471 Application Number: 171036180, 171031345, 171032303

Ms. Patel

In response to your notification of the Intent to Rescind for **FY15 F.471 #1044716, FRN 2849807** and FY16 F.471 #161050304, FRN 1699122165, as well as the Intent to Deny for FY17 F.471 #171036180, FRN 1799080957;

All of the bids sent by the Pinellas contain the following language in the general terms and conditions:

In paragraph h of the general terms and conditions on page two of each bid:

h) Item Specifications: Specifications in this document may reference specific manufacturers' products and list their model or part numbers, followed by the words "or equal" or "approved brands". **Unless the words "only" or "No Substitutes" is used in place of "or equal", these references are intended to establish a quality and performance standard only. Anything listed, herein, of a proprietary nature is done so without express knowledge or intent to exclude other manufacturers' products from consideration.**

i) Any item bid as an alternate which lacks sufficient descriptive literature or technical information to enable a complete comparative analysis, may prevent its consideration.

ii) If the bidder does not clearly state in their bid proposal that an item proposed is an alternate to that specified, the bidder must furnish the specified item upon receipt of a purchase order or else be declared in breach of contract.

All RFPs/bid request contain this language. **Our specifications did not specify "only" or "no substitutes"** so we would have accepted any equal alternate properly submitted with documentation as specified to be able to evaluate the product. Item i and item ii **clearly state to the potential vendor how they should submit alternate or equivalent products** and what needs to be provided when doing so. **The language used in our bids is stated far more clearly about this than simply using the term "equivalent"**. Although it is plainly stated, had anyone questioned the intent of the bid and asked that they be allowed to bid they would have been invited to do so regardless of the product being offered.

This bid has been reviewed in the past by USAC and was found to be acceptable after the wording was explained. We believe that the wording is more than sufficient to cover the requirements of USAC for the competitive bidding process. This wording is what is used by the district to assure that all of our bids are competitive. The requirements laid out by USAC for the "or equivalent" actually came out after this bid was published on the street. If we had known about the requirement at that time, we would have been more specific in both sections however the existence of section h paragraph 2 of the general terms and conditions meets the intent of the specification.

ADMINISTRATION BUILDING
301 Fourth St. SW
P.O. Box 2942
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Ph. (727) 588-6000

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Carol J. Cook
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Linda S. Lerner
Eileen M. Long

Superintendent
Michael A. Grego, Ed.D.



Vision:
100% Student Success

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To deny funding of our FY17 Form 471 and to rescind the funding commitments approved for FY15 and FY16 would cause extreme and unnecessary hardship on our school district. The purpose of the E-Rate program is to assist school districts in obtaining high speed Internet access, which is exactly what this funding request is seeking to achieve. There was no intent to mislead vendors or side-step a fair and open bidding process. The wording used in our bid is the same that has been used in all Pinellas County School bids. It has been approved by our school board, follows all district purchasing standards and those for the State of Florida.

We have already had to halt our UPS project due to this notice so we are already having an impact on our schools and their performance during testing. We are requesting that this be resolved in our favor as quickly as possible so that we may resume the project. Our schools need this equipment to provide a stable delivery of services.

If you have any questions or require any further information, please contact Shannon Eddinger at eddingersh@pcsb.org or 727-588-6000, ext.1815.

Thank you,

David Galvin

David Galvin
Director, Networking and Telecommunications
Pinellas County Schools
galvind@pcsb.org
727-588-6059

Exhibit 8

Shannon Eddinger
PINELLAS COUNTY SCHOOLS
301 4TH ST SW, PO BOX 2942
LARGO, FL 33779 - 2942



Commitment Adjustment Letter

Shannon Eddinger
PINELLAS COUNTY SCHOOLS
301 4TH ST SW, PO BOX 2942
LARGO, FL 33779 - 2942

01/10/2018

Our review of your Schools and Libraries Universal Service Support Program (or E-rate) funding request has determined funds were committed in violation of Federal Communications Commission (FCC) rules. You have 60 days from the date of this letter to appeal the following decision(s). For more detailed information see below.

Total commitment adjustment: \$203,491.58

Total amount to be recovered: \$36,537.41

<i>FCC Form 471</i>	<i>FRN</i>	<i>Commitment adjustment</i>	<i>Total amount to be recovered</i>	<i>Explanation(s)</i>	<i>Party to recover from</i>
1044716	2849807	\$203,491.58	\$36,537.41	Comp. Bidding Violation	Applicant

See Attached Adjustment Report for more information on the specific FRNs and Explanations listed above.

Commitment Adjustment

FCC rules require the Universal Service Administrative Company (USAC) to rescind commitments and recover funding when it is determined that funding was committed and disbursed in violation of the rules. This letter notifies you that USAC will be adjusting your funding commitment(s) and provides information on how to appeal this decision.

This is NOT a bill. If disbursed funds need to be recovered, USAC will issue a Demand Payment Letter. The debt referenced in the Demand Payment Letter will be due within 30 days of that letter's date. Failure to pay the debt may result in interest, late payment fees, and administrative charges and will invoke the FCC's "Red Light Rule."

FCC's Red Light Rule

The FCC Red Light Rule requires USAC to dismiss pending FCC Form 471 applications, appeals, and invoices or to net disbursements offsetting the debt if the entity responsible for paying the outstanding debt owed to the FCC has not paid the debt or made satisfactory arrangements to pay the debt within 30 days of the Demand Payment Letter. For information on the Red Light Rule, see

<https://www.fcc.gov/licensing-databases/fees/debt-collection-improvement-act-implementation>

To Appeal This Decision

If you wish to contest any part of this letter, you must first file an appeal with USAC to seek review of the decision. Parties that have filed an appeal with USAC and received an adverse decision may, if they choose, appeal USAC's decision to the FCC. Parties seeking a waiver of a codified FCC rule should file a request for waiver directly with the FCC because USAC cannot waive FCC rules. Your appeal to USAC or waiver request to the FCC must be filed within 60 days of the date of this letter.

All appeals filed with USAC must be filed in EPC by selecting "Appeal" from the menu in the top right hand corner of your landing page and providing the requested information.

Your appeal should include the following information. (Because you file the appeal through your EPC account, the system will automatically fill in some of these components for you).

- 1) Name, address, telephone number, and email address for the contact person for this appeal.
- 2) Indicate specifically that your letter is an appeal. Include the following to identify the USAC decision letter (e.g., Commitment Adjustment Letter) and the decision you are appealing:
 - a. Appellant name;
 - b. Applicant name and service provider name, if different from appellant;
 - c. Applicant BEN and Service Provider Identification Number (SPIN);
 - d. FCC Form 471 Application Number and the Funding Request Number (FRN) or Numbers as assigned by USAC;
 - e. "Commitment Adjustment Letter," AND the exact text or the decision that you are appealing.

3) Identify the problem and the reason for the appeal and explain precisely the relief sought. Please keep your appeal to the point, and provide supporting documentation. Be sure to keep a copy of your entire appeal, including any correspondence and documentation. A copy will automatically be saved for you in EPC. USAC will reply to your appeal submission to confirm receipt.

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The FCC recommends filing appeals or waiver requests with the Electronic Comment Filing System (ECFS) to ensure timely filing. Electronic waiver requests or appeals will be considered filed on a business day if they are received at any time before 11:59 PM ET. If you have questions or comments about using the ECFS, please contact the FCC directly at (202) 418-0193.

For more information about submitting waiver requests or appeals to the FCC, including options to submit the waiver request or appeal via U.S. mail or hand delivery, visit the FCC's website.

Schools and Libraries Division

cc: Cathi Whelan
Insight Public Sector Inc

Adjustment Report

FCC Form 471 Application Number: 1044716
Funding Request Number: 2849807
Commitment Adjustment: \$203,491.58
Total Amount to Be Recovered: \$36,537.41
Explanation(s): Comp. Bidding Violation

Party to Recover From: Applicant
Funding Year: 2015
Billed Entity Number: 127804
Services Ordered: INTERNAL CONNECTIONS
Service Provider Name: Insight Public Sector Inc
SPIN: 143030052
Original Funding Commitment: \$203,491.58
Adjusted Funding Commitment: \$0.00
Funds Disbursed to Date: \$36,537.41

Funding Commitment Adjustment Explanation

After a thorough investigation it has been determined that this funding commitment must be rescinded in full. We have completed our review and determined FCC Form 470# 579030001297768 as well as a Request for Proposal that was issued in conjunction with the RFP contain references to a particular manufacturers name, brand, product or service and did not include the words "or equivalent" to describe the requested products or services. Specifically, the Form 470 requests specific makes of equipment (for example, "5PX3000RTN") and does not include a statement that equivalent manufacturers would be considered. Additionally, the RFP cites specific manufacturers (for example, "Eaton") and does not include the necessary language to allow alternates to be considered. Such a description ("or equivalent") will prevent the Form 470 / RFP from being construed as requiring only a specific product or service provider, which could undermine the competitive bidding process by eliminating the opportunity for the applicant to purchase an equivalent or better product that may be less expensive or to choose a less expensive service provider. Accordingly, the commitment of the FRNs will be rescinded in full and USAC will seek recovery of any improperly disbursed funds from the applicant.

Cathi Whelan
Insight Public Sector Inc
6820 S. Harl Avenue,
Tempe, AZ 85283



Commitment Adjustment Letter

Shannon Eddinger
PINELLAS COUNTY SCHOOLS
301 4TH ST SW, PO BOX 2942
LARGO, FL 33779 - 2942

01/10/2018

Our review of your Schools and Libraries Universal Service Support Program (or E-rate) funding request has determined funds were committed in violation of Federal Communications Commission (FCC) rules. You have 60 days from the date of this letter to appeal the following decision(s). For more detailed information see below.

Total commitment adjustment: \$203,491.58

Total amount to be recovered: \$36,537.41

<i>FCC Form 471</i>	<i>FRN</i>	<i>Commitment adjustment</i>	<i>Total amount to be recovered</i>	<i>Explanation(s)</i>	<i>Party to recover from</i>
1044716	2849807	\$203,491.58	\$36,537.41	Comp. Bidding Violation	Applicant

See Attached Adjustment Report for more information on the specific FRNs and Explanations listed above.

Commitment Adjustment

FCC rules require the Universal Service Administrative Company (USAC) to rescind commitments and recover funding when it is determined that funding was committed and disbursed in violation of the rules. This letter notifies you that USAC will be adjusting your funding commitment(s) and provides information on how to appeal this decision.

This is NOT a bill. If disbursed funds need to be recovered, USAC will issue a Demand Payment Letter. The debt referenced in the Demand Payment Letter will be due within 30 days of that letter's date. Failure to pay the debt may result in interest, late payment fees, and administrative charges and will invoke the FCC's "Red Light Rule."

FCC's Red Light Rule

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 - d. FCC Form 471 Application Number and the Funding Request Number (FRN) or Numbers as assigned by USAC;
 - e. "Commitment Adjustment Letter," AND the exact text or the decision that you are appealing.

3) Identify the problem and the reason for the appeal and explain precisely the relief sought. Please keep your appeal to the point, and provide supporting documentation. Be sure to keep a copy of your entire appeal, including any correspondence and documentation. A copy will automatically be saved for you in EPC. USAC will reply to your appeal submission to confirm receipt.

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For more information about submitting waiver requests or appeals to the FCC, including options to submit the waiver request or appeal via U.S. mail or hand delivery, visit the FCC's website.

Schools and Libraries Division

cc: Cathi Whelan
Insight Public Sector Inc

Adjustment Report

FCC Form 471 Application Number: 1044716
Funding Request Number: 2849807
Commitment Adjustment: \$203,491.58
Total Amount to Be Recovered: \$36,537.41
Explanation(s): Comp. Bidding Violation

Party to Recover From: Applicant
Funding Year: 2015
Billed Entity Number: 127804
Services Ordered: INTERNAL CONNECTIONS
Service Provider Name: Insight Public Sector Inc
SPIN: 143030052
Original Funding Commitment: \$203,491.58
Adjusted Funding Commitment: \$0.00
Funds Disbursed to Date: \$36,537.41

Funding Commitment Adjustment Explanation

After a thorough investigation it has been determined that this funding commitment must be rescinded in full. We have completed our review and determined FCC Form 470# 579030001297768 as well as a Request for Proposal that was issued in conjunction with the RFP contain references to a particular manufacturers name, brand, product or service and did not include the words "or equivalent" to describe the requested products or services. Specifically, the Form 470 requests specific makes of equipment (for example, "5PX3000RTN") and does not include a statement that equivalent manufacturers would be considered. Additionally, the RFP cites specific manufacturers (for example, "Eaton") and does not include the necessary language to allow alternates to be considered. Such a description ("or equivalent") will prevent the Form 470 / RFP from being construed as requiring only a specific product or service provider, which could undermine the competitive bidding process by eliminating the opportunity for the applicant to purchase an equivalent or better product that may be less expensive or to choose a less expensive service provider. Accordingly, the commitment of the FRNs will be rescinded in full and USAC will seek recovery of any improperly disbursed funds from the applicant.

Shannon Eddinger
PINELLAS COUNTY SCHOOLS
301 4TH ST SW, PO BOX 2942
LARGO, FL 33779 - 2942



Commitment Adjustment Letter

Shannon Eddinger
PINELLAS COUNTY SCHOOLS
301 4TH ST SW, PO BOX 2942
LARGO, FL 33779 - 2942

01/10/2018

Our review of your Schools and Libraries Universal Service Support Program (or E-rate) funding request has determined funds were committed in violation of Federal Communications Commission (FCC) rules. You have 60 days from the date of this letter to appeal the following decision(s). For more detailed information see below.

Total commitment adjustment: \$1,998,879.34

Total amount to be recovered: \$955,912.55

<i>FCC Form 471</i>	<i>FRN</i>	<i>Commitment adjustment</i>	<i>Total amount to be recovered</i>	<i>Explanation(s)</i>	<i>Party to recover from</i>
1043334	2845032	\$1,998,879.34	\$955,912.55	Comp. Bidding Violation	Applicant

See Attached Adjustment Report for more information on the specific FRNs and Explanations listed above.

Commitment Adjustment

FCC rules require the Universal Service Administrative Company (USAC) to rescind commitments and recover funding when it is determined that funding was committed and disbursed in violation of the rules. This letter notifies you that USAC will be adjusting your funding commitment(s) and provides information on how to appeal this decision.

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 - d. FCC Form 471 Application Number and the Funding Request Number (FRN) or Numbers as assigned by USAC;
 - e. "Commitment Adjustment Letter," AND the exact text or the decision that you are appealing.



3) Identify the problem and the reason for the appeal and explain precisely the relief sought. Please keep your appeal to the point, and provide supporting documentation. Be sure to keep a copy of your entire appeal, including any correspondence and documentation. A copy will automatically be saved for you in EPC. USAC will reply to your appeal submission to confirm receipt.

For more information on submitting an appeal to USAC including step by step instructions on how to file the appeal through EPC, please see "Appeals" in the Schools and Libraries section of the USAC website.

As mentioned, parties seeking a waiver of FCC rules or that have filed an appeal with USAC and received a decision may file a request for waiver or appeal USAC's decision to the FCC. Waiver requests or appeals to the FCC must be made within 60 days of the issuance of USAC's decision and include all of the information referenced above for appeals to USAC.

The FCC recommends filing appeals or waiver requests with the Electronic Comment Filing System (ECFS) to ensure timely filing. Electronic waiver requests or appeals will be considered filed on a business day if they are received at any time before 11:59 PM ET. If you have questions or comments about using the ECFS, please contact the FCC directly at (202) 418-0193.

For more information about submitting waiver requests or appeals to the FCC, including options to submit the waiver request or appeal via U.S. mail or hand delivery, visit the FCC's website.

Schools and Libraries Division

cc: Roland Feijoo
Extensys, Inc.

Adjustment Report

FCC Form 471 Application Number: 1043334
Funding Request Number: 2845032
Commitment Adjustment: \$1,998,879.34
Total Amount to Be Recovered: \$955,912.55
Explanation(s): Comp. Bidding Violation

Party to Recover From: Applicant
Funding Year: 2015
Billed Entity Number: 127804
Services Ordered: INTERNAL CONNECTIONS
Service Provider Name: Extensys, Inc.
SPIN: 143025415
Original Funding Commitment: \$1,998,879.34
Adjusted Funding Commitment: \$0.00
Funds Disbursed to Date: \$955,912.55

Funding Commitment Adjustment Explanation

After a thorough investigation it has been determined that this funding commitment must be rescinded in full. We have completed our review and determined FCC Form 470# 518210001301174 as well as a Request for Proposal that was issued in conjunction with the RFP contain references to a particular manufacturers name, brand, product or service and did not include the words or equivalent to describe the requested products or services. Specifically, the Form 470 requests, "Enterprise wireless system: Juniper & Aruba or Cisco" and does not include a statement that equivalent manufacturers would be considered. Additionally, the RFP cites specific manufacturers and does not include the necessary language to allow alternates to be considered (Please Note: pg. 15 of 35 of the RFP indicates that a bidder could be considered non-responsive if they are not an authorized re-seller of Juniper, Aruba, or Cisco equipment). Such a description ("or equivalent") will prevent the Form 470 / RFP from being construed as requiring only a specific product or service provider, which could undermine the competitive bidding process by eliminating the opportunity for the applicant to purchase an equivalent or better product that may be less expensive or to choose a less expensive service provider. Accordingly, the commitment of the FRNs will be rescinded in full and USAC will seek recovery of any improperly disbursed funds from the applicant.

Roland Feijoo
Extensys, Inc.
253 Pine Avenue North, Bldg. B
Oldsmar, FL 34677



Commitment Adjustment Letter

Shannon Eddinger
PINELLAS COUNTY SCHOOLS
301 4TH ST SW, PO BOX 2942
LARGO, FL 33779 - 2942

01/10/2018

Our review of your Schools and Libraries Universal Service Support Program (or E-rate) funding request has determined funds were committed in violation of Federal Communications Commission (FCC) rules. You have 60 days from the date of this letter to appeal the following decision(s). For more detailed information see below.

Total commitment adjustment: \$1,998,879.34

Total amount to be recovered: \$955,912.55

<i>FCC Form 471</i>	<i>FRN</i>	<i>Commitment adjustment</i>	<i>Total amount to be recovered</i>	<i>Explanation(s)</i>	<i>Party to recover from</i>
1043334	2845032	\$1,998,879.34	\$955,912.55	Comp. Bidding Violation	Applicant

See Attached Adjustment Report for more information on the specific FRNs and Explanations listed above.

Commitment Adjustment

FCC rules require the Universal Service Administrative Company (USAC) to rescind commitments and recover funding when it is determined that funding was committed and disbursed in violation of the rules. This letter notifies you that USAC will be adjusting your funding commitment(s) and provides information on how to appeal this decision.

This is NOT a bill. If disbursed funds need to be recovered, USAC will issue a Demand Payment Letter. The debt referenced in the Demand Payment Letter will be due within 30 days of that letter's date. Failure to pay the debt may result in interest, late payment fees, and administrative charges and will invoke the FCC's "Red Light Rule."

FCC's Red Light Rule

The FCC Red Light Rule requires USAC to dismiss pending FCC Form 471 applications, appeals, and invoices or to net disbursements offsetting the debt if the entity responsible for paying the outstanding debt owed to the FCC has not paid the debt or made satisfactory arrangements to pay the debt within 30 days of the Demand Payment Letter. For information on the Red Light Rule, see

<https://www.fcc.gov/licensing-databases/fees/debt-collection-improvement-act-implementation>

To Appeal This Decision

If you wish to contest any part of this letter, you must first file an appeal with USAC to seek review of the decision. Parties that have filed an appeal with USAC and received an adverse decision may, if they choose, appeal USAC's decision to the FCC. Parties seeking a waiver of a codified FCC rule should file a request for waiver directly with the FCC because USAC cannot waive FCC rules. Your appeal to USAC or waiver request to the FCC must be filed within 60 days of the date of this letter.

All appeals filed with USAC must be filed in EPC by selecting "Appeal" from the menu in the top right hand corner of your landing page and providing the requested information.

Your appeal should include the following information. (Because you file the appeal through your EPC account, the system will automatically fill in some of these components for you).

- 1) Name, address, telephone number, and email address for the contact person for this appeal.
- 2) Indicate specifically that your letter is an appeal. Include the following to identify the USAC decision letter (e.g., Commitment Adjustment Letter) and the decision you are appealing:
 - a. Appellant name;
 - b. Applicant name and service provider name, if different from appellant;
 - c. Applicant BEN and Service Provider Identification Number (SPIN);
 - d. FCC Form 471 Application Number and the Funding Request Number (FRN) or Numbers as assigned by USAC;
 - e. "Commitment Adjustment Letter," AND the exact text or the decision that you are appealing.



3) Identify the problem and the reason for the appeal and explain precisely the relief sought. Please keep your appeal to the point, and provide supporting documentation. Be sure to keep a copy of your entire appeal, including any correspondence and documentation. A copy will automatically be saved for you in EPC. USAC will reply to your appeal submission to confirm receipt.

For more information on submitting an appeal to USAC including step by step instructions on how to file the appeal through EPC, please see "Appeals" in the Schools and Libraries section of the USAC website.

As mentioned, parties seeking a waiver of FCC rules or that have filed an appeal with USAC and received a decision may file a request for waiver or appeal USAC's decision to the FCC. Waiver requests or appeals to the FCC must be made within 60 days of the issuance of USAC's decision and include all of the information referenced above for appeals to USAC.

The FCC recommends filing appeals or waiver requests with the Electronic Comment Filing System (ECFS) to ensure timely filing. Electronic waiver requests or appeals will be considered filed on a business day if they are received at any time before 11:59 PM ET. If you have questions or comments about using the ECFS, please contact the FCC directly at (202) 418-0193.

For more information about submitting waiver requests or appeals to the FCC, including options to submit the waiver request or appeal via U.S. mail or hand delivery, visit the FCC's website.

Schools and Libraries Division

cc: Roland Feijoo
Extensys, Inc.

Adjustment Report

FCC Form 471 Application Number: 1043334
Funding Request Number: 2845032
Commitment Adjustment: \$1,998,879.34
Total Amount to Be Recovered: \$955,912.55
Explanation(s): Comp. Bidding Violation

Party to Recover From: Applicant
Funding Year: 2015
Billed Entity Number: 127804
Services Ordered: INTERNAL CONNECTIONS
Service Provider Name: Extensys, Inc.
SPIN: 143025415
Original Funding Commitment: \$1,998,879.34
Adjusted Funding Commitment: \$0.00
Funds Disbursed to Date: \$955,912.55

Funding Commitment Adjustment Explanation

After a thorough investigation it has been determined that this funding commitment must be rescinded in full. We have completed our review and determined FCC Form 470# 518210001301174 as well as a Request for Proposal that was issued in conjunction with the RFP contain references to a particular manufacturers name, brand, product or service and did not include the words or equivalent to describe the requested products or services. Specifically, the Form 470 requests, "Enterprise wireless system: Juniper & Aruba or Cisco" and does not include a statement that equivalent manufacturers would be considered. Additionally, the RFP cites specific manufacturers and does not include the necessary language to allow alternates to be considered (Please Note: pg. 15 of 35 of the RFP indicates that a bidder could be considered non-responsive if they are not an authorized re-seller of Juniper, Aruba, or Cisco equipment). Such a description ("or equivalent") will prevent the Form 470 / RFP from being construed as requiring only a specific product or service provider, which could undermine the competitive bidding process by eliminating the opportunity for the applicant to purchase an equivalent or better product that may be less expensive or to choose a less expensive service provider. Accordingly, the commitment of the FRNs will be rescinded in full and USAC will seek recovery of any improperly disbursed funds from the applicant.

Exhibit 9

February 22, 2018

Universal Service Administrative Company
Schools and Libraries Division
30 Lanidex Plaza West
Parsippany, NJ 07054

LETTER OF APPEAL
PINELLAS COUNTY SCHOOLS

Applicant:	Pinellas County Schools
Billed Entity Number:	127804
Funding Years:	2015; 2017
FCC Form 471 Application Numbers:	1044716; 171036180
Funding Request Numbers:	2849807; 1799080957

Pinellas County Schools (“Pinellas”) hereby appeals the action taken by the Universal Service Administrative Company (“USAC”) with respect to the above-captioned applications.

USAC approved the applications and funding requests in question and issued reimbursements for the requested equipment. Years later, citing competitive bidding violations, USAC has determined to rescind funding commitments and recover funds disbursed. Specifically, USAC alleges that Pinellas posted an FCC Form 470 (“Form 470”) referencing a particular manufacturer’s products without including a statement that equivalent makes would be considered. Pinellas respectfully disagrees.

As discussed below, Pinellas conducted a fair and open competitive bidding process that in all respects complied with program requirements and FCC rules. Although it included certain makes/models on the Form 470, the associated request for proposal (“RFP”) made clear that it would consider other manufacturers’ products.

Pinellas respectfully requests that USAC (1) reverse the Commitment Adjustment determination, (2) discontinue recovery actions against Pinellas pending final resolution of the matter, and (3) issue a revised funding commitment decision, approving Pinellas’ funding year 2017 funding request. Given the facts and circumstances of this case, together with Pinellas’ demonstrated compliance with program rules, there are ample grounds to grant the requested relief.

I. BACKGROUND

A. Funding Year 2015

On January 15, 2015, Pinellas issued an RFP seeking bids for uninterruptible power supplies (“UPS”) and accessories.¹ The solicitation specified that bids submitted and any resulting contract must comply with

¹ Pinellas County Schools, “*Request for Proposals for Uninterruptable Power Supplies and Accessories: Eaton, Sealed Bid Number 15-205-150*,” January 15, 2015 (“RFP”). The RFP is attached as Exhibit A.

E-rate program rules and regulations. It also contained the “General Terms and Conditions” included in all RFPs issued by Pinellas and the following provision:

Specifications in this document may reference specific manufacturers’ products and list their model or part numbers, followed by the words “or equal” or “approved brands”. Unless the words “only” or “No Substitutes” is used in place of “or equal”, *these references are intended to establish a quality and performance standard only. Anything listed, herein, of a proprietary nature is done so without express knowledge or intent to exclude other manufacturers’ products from consideration* [emphasis added].²

Pinellas posted the associated Form 470 on January 16, 2015.³ It indicated on the form that an RFP providing additional detail was available, and it provided the bid number and web address to the solicitation. In the “Service” field, Pinellas stated that it was seeking “UPS for MDF [main distribution frame] and IDF [intermediate distribution frame] closets,” and listed several Eaton UPS models.⁴ Pinellas also instructed interested bidders to see the RFP for full details, as the makes/models referenced were for “general outline” purposes only.⁵

After waiting the requisite 28 days, Pinellas began reviewing and evaluating proposals received. On March 2, 2015, a final recommendation was made to award the UPS bid to Insight Public Sector, Inc. (“Insight”), and, on March 17, 2015, the parties entered into a one-year agreement with two 12-month renewal options.

With an agreement in place, on April 16, 2015, Pinellas filed its funding year 2015 FCC Form 471 (“Form 471”).⁶ USAC approved the application on November 15, 2015.

B. Funding Year 2017

On May 10, 2017, Pinellas filed its funding year 2017 application, referencing the funding year 2015 Form 470, the RFP for UPS equipment, and the agreement with Insight.⁷

On May 25, 2017, while its Form 471 was pending, Pinellas received a Selective Review Information Request (“SRIR”) from USAC. USAC requested competitive bidding documentation tied to a number of funding years, and Pinellas timely provided the requested information and documentation.

On July 6, 2017, USAC notified Pinellas that it had discovered certain competitive bidding violations and intended to deny Pinellas’ funding year 2017 application.⁸ Specifically, USAC alleged that Pinellas’ funding year 2015 Form 470 referenced a particular manufacturer’s product without including a statement that equivalent makes would be considered:

It was determined that Application #171036180 – FRN 1799080957 will be denied because the FCC Form 470 #579030001297768 / RFP #15-

² RFP at 3.

³ FCC Form 470 Number 579030001297768 (“Form 470”), attached as Exhibit B.

⁴ Form 470 at 3.

⁵ *Id* at 3.

⁶ See FCC Form 471 Application Number 1044716.

⁷ See FCC Form 471 Application Number 171036180.

⁸ Selective Review EPC notification, dated July 7, 2017. A copy of the notification is attached as Exhibit C.

205-150 that you have cited contains a particular manufacturer's name, brand, product and service but did not include the words "or equivalent" to describe the requested products and services.⁹

Because the UPS equipment was purchased using a multi-year agreement, USAC informed Pinellas that it would also be rescinding the funding year 2015 commitment and recovering any previously disbursed funds.

In its July 13, 2017 response, Pinellas cited the terms in the RFP and informed USAC that any reference to a specific manufacturer's product were "intended to establish a quality and performance standard only."¹⁰ Pinellas also explained that it would have accepted any equivalent products, as neither the RFP nor Form 470 used the terms "only" or "no substitute".¹¹

Nevertheless, on January 10, 2018, Pinellas received a Commitment Adjustment ("COMAD") Letter informing it that USAC had determined to rescind and recover funds committed in 2015.¹² The notification letter included the following explanation:

... We have completed our review and determined FCC Form 470 #579030001297768 as well as a Request for Proposal that was issued in conjunction with the RFP contain references to a particular manufacturer's name, brand, product or service and did not include the words "or equivalent" to describe the requested products or services. Specifically, the Form 470 requests specific makes of equipment (for example, "5PX3000RTN") and does not include a statement that equivalent manufacturers would be considered. Additionally, the RFP cites specific manufacturers (for example, "Eaton") and does not include the necessary language to allow alternates to be considered . . . Accordingly, the commitment of the FRNs will be rescinded in full and USAC will seek recovery of any improperly disbursed funds from the applicant.¹³

In all, USAC determined to rescind \$203,491.58 in funding commitments and recover \$36,537.41 in previously disbursed funds. USAC also denied Pinellas' funding year 2017 funding request, totaling \$235,576.04.

II. ARGUMENT

A. Pinellas conducted an open and fair competitive bidding process.

Pinellas conducted a fair and open competitive bidding process that in all respects complied with E-rate program requirements and Commission rules. It issued the RFP in accordance with state and local procurement rules. It timely posted the funding year 2015 Form 470. It waited well beyond the requisite 28 days before evaluating bids received. And it had in place a signed agreement with the selected vendor before filing the funding year 2015 application. Accordingly, USAC approved the application and disbursed the funds requested. USAC also approved Pinellas' funding year 2016 application.

⁹ *Id.*

¹⁰ Pinellas' Selective Review response, dated July 13, 2017, is attached as Exhibit D.

¹¹ *Id.*

¹² A copy of the Commitment Adjustment Letter, dated January 10, 2018, is attached as Exhibit E.

¹³ *Id.* at 4.

B. The RFP made clear that alternative makes/models of equipment would be considered.

USAC charges that Pinellas' funding year 2015 Form 470 referenced a particular manufacturer's product without including a statement that equivalent makes would be considered. Pinellas respectfully disagrees. It does not dispute USAC's contention that the Form 470 included references to a particular manufacturer's products. In fact, Pinellas listed several Eaton UPS models on the form. Contrary to USAC's assertion, however, the RFP issued in conjunction with Form 470 specifically stated that Pinellas *would* consider equivalent products. The terms of the RFP made clear that any reference to a specific manufacturer's products were "intended to establish a quality and performance standard only."¹⁴ The solicitation also provided that any such references were made without any "intent to exclude other manufacturers' products from consideration."¹⁵

On the Form 470 itself, Pinellas indicated that an RFP providing additional detail was available, and it provided the bid number and web address to the solicitation. Pinellas also specified on the form that interested bidders should see the RFP for full details, as the makes/models referenced were for general outline purposes only. The terms of the RFP, together with the information provided on the Form 470, made clear that Pinellas would consider equivalent makes.

III. RELIEF SOUGHT

For the foregoing reasons, Pinellas respectfully requests that USAC (1) reverse the Commitment Adjustment determination for funding year 2015, (2) discontinue recovery actions against Pinellas pending final resolution of the matter, and (3) issue a revised funding commitment decision, approving Pinellas' funding year 2017 funding request.

Respectfully submitted *on behalf of*
Pinellas County Schools

By: /s/ Catherine Cruzan
Catherine Cruzan
President

Funds For Learning, LLC
2575 Kelley Pointe Parkway
Suite 200
Edmond, OK 73013

ccruzan@fundsforlearning.com
(405) 341-4140

cc: David Galvin
Director, Networking and Telecommunications
Pinellas County Schools^{SEP} Technology and Information Systems (TIS)

¹⁴ RFP at 3.

¹⁵ *Id* at 3.

Exhibit 10

February 22, 2018

Universal Service Administrative Company
Schools and Libraries Division
30 Lanidex Plaza West
Parsippany, NJ 07054

LETTER OF APPEAL
PINELLAS COUNTY SCHOOLS

Applicant:	Pinellas County Schools
Billed Entity Number:	127804
Funding Years:	2015
FCC Form 471 Application Numbers:	1043334
Funding Request Numbers:	2845032

Pinellas County Schools (“Pinellas”) hereby appeals the action taken by the Universal Service Administrative Company (“USAC”) with respect to the above-captioned applications.

USAC approved the application and funding request in question and issued reimbursement for the requested equipment. Years later, citing competitive bidding violations, USAC has determined to rescind the funding commitment and recover funds disbursed. Specifically, USAC alleges that Pinellas posted an FCC Form 470 (“Form 470”) referencing particular manufacturers’ products without including a statement that equivalent makes would be considered. Pinellas respectfully disagrees.

As discussed below, Pinellas conducted a fair and open competitive bidding process that in all respects complied with program requirements and FCC rules. Although it included certain makes/models on the Form 470, the associated request for proposal (“RFP”) made clear that it would consider other manufacturers’ products.

Pinellas respectfully requests that USAC (1) reverse the Commitment Adjustment determination and (2) discontinue recovery actions against Pinellas pending final resolution of the matter. Given the facts and circumstances of this case, together with Pinellas’ demonstrated compliance with program rules, there are ample grounds to grant the requested relief.

I. BACKGROUND

On January 20, 2015, Pinellas issued an RFP seeking bids for wireless network equipment.¹ The solicitation specified that bids submitted and any resulting contract must comply with E-rate program rules and regulations. It also contained the “General Terms and Conditions” included in all RFPs issued by Pinellas and the following provision:

Specifications in this document may reference specific manufacturers’ products and list their model or part numbers, followed by the words “or

¹ Pinellas County Schools, “*Request for Proposals for Wireless Network Equipment and Installation: Juniper, Aruba, and Cisco, Sealed Bid Number 15-205-154*,” January 20, 2015 (“RFP”). The RFP is attached as Exhibit A.

equal” or “approved brands”. Unless the words “only” or “No Substitutes” is used in place of “or equal”, *these references are intended to establish a quality and performance standard only. Anything listed, herein, of a proprietary nature is done so without express knowledge or intent to exclude other manufacturers’ products from consideration* [emphasis added].

Any item bid as an alternate which lacks sufficient descriptive literature or technical information to enable a complete comparative analysis, may prevent its consideration.

If the bidder does not clearly state in their bid proposal that an item proposed is an alternate to that specified, the bidder must furnish the specified item upon receipt of a purchase order or else be declared in breach of contract.²

Pinellas posted the associated Form 470 on January 21, 2015.³ It indicated on the form that an RFP providing additional detail was available, and it provided the bid number and web address to the solicitation. In the “Service” field, Pinellas stated that it was seeking “Enterprise wireless system: Juniper & Aruba or Cisco.”⁴ Pinellas also instructed interested bidders to see the RFP for full details.

After waiting the requisite 28 days, Pinellas began reviewing and evaluating proposals received. On March 2, 2015, a final recommendation was made to award the wireless network equipment bid to Extensys, Inc. (“Extensys”), and, on March 17, 2015, the parties entered into a multi-year agreement.

With an agreement in place, on April 16, 2015, Pinellas filed its funding year 2015 FCC Form 471 (“Form 471”).⁵ USAC approved the application on October 21, 2015. The service provider delivered the equipment as agreed, and USAC issued reimbursement to Pinellas.

Nearly two years later, on May 25, 2017, Pinellas received a Selective Review Information Request (“SRIR”) from USAC. USAC requested competitive bidding documentation tied to a number of funding years, and Pinellas timely provided the requested information and documentation.

Although Pinellas provided all documentation requested, on July 6, 2017, USAC notified Pinellas that it had discovered certain competitive bidding violations.⁶ Specifically, USAC alleged that Pinellas’ funding year 2015 Form 470 referenced a particular manufacturer’s product without including a statement that equivalent makes would be considered:

It was determined that Application #171032303 – FRN 1799070648 will be denied because the FCC Form 470 #518210001301174 / RFP #15-205-154 that you have cited contains a particular manufacturer’s name, brand, product and service but did not include the words “or equivalent” to describe the requested products and services.⁷

² RFP at 3.

³ FCC Form 470 Number 518210001301174 (“Form 470”), attached as Exhibit B.

⁴ Form 470 at 3.

⁵ See FCC Form 471 Application Number 1043334.

⁶ Selective Review EPC notification, dated July 7, 2017. A copy of the notification is attached as Exhibit C.

⁷ *Id.*

In its response, Pinellas cited the terms in the RFP and informed USAC that any reference to a specific manufacturer's product were "intended to establish a quality and performance standard only."⁸ It also explained that it would have accepted any equivalent products, as neither the RFP nor Form 470 used the terms "only" or "no substitute".⁹

Nevertheless, on January 10, 2018, Pinellas received a Commitment Adjustment ("COMAD") Letter informing it that USAC had determined to rescind and/or recover certain funding commitments.¹⁰ The notification letter included the following explanation:

. . . We have completed our review and determined FCC Form 470 #518210001301174 as well as a Request for Proposal that was issued in conjunction with the RFP contain references to a particular manufacturers name, brand, product or service and did not include the words or equivalent to describe the requested products or services. Specifically, the Form 470 requests, "Enterprise wireless system: Juniper & Aruba or Cisco" and does not include a statement that equivalent manufacturers would be considered. Additionally, the RFP cites specific manufacturers and does not include the necessary language to allow alternates to be considered (Please Note: pg. 15 of 35 of the RFP indicates that a bidder could be considered non-responsive if they are not an authorized re-seller of Juniper, Aruba, or Cisco equipment).may be less expensive or to choose a less expensive service provider. . . Accordingly, the commitment of the FRNs will be rescinded in full and USAC will seek recovery of any improperly disbursed funds from the applicant.¹¹

In all, USAC determined to rescind \$1,998,879.34 in funds committed and recover \$995,912.55 in previously disbursed funds.

II. ARGUMENT

A. Pinellas conducted an open and fair competitive bidding process.

Pinellas conducted a fair and open competitive bidding process that in all respects complied with E-rate program requirements and Commission rules. It issued the RFP in accordance with state and local procurement rules. It timely posted the funding year 2015 Form 470. It waited well beyond the requisite 28 days before evaluating bids received. And it had in place a signed agreement with the selected vendor before filing the funding year 2015 application. Accordingly, USAC approved the application and disbursed the funds requested. USAC also approved Pinellas' funding year 2016 and application.

B. The RFP made clear that alternative makes/models of equipment would be considered.

USAC charges that Pinellas' funding year 2015 Form 470 referenced particular manufacturers' products without including a statement that equivalent makes would be considered. Pinellas respectfully disagrees. It does not dispute USAC's contention that the Form 470 included references to a particular manufacturer's products. In fact, Pinellas listed several manufacturers on the form. Contrary to USAC's

⁸ Pinellas' Selective Review responses, dated July 13, 2017 and September 27, 2017, are attached as Exhibit D.

⁹ *Id.*

¹⁰ A copy of the Commitment Adjustment Letter, dated January 10, 2018, is attached as Exhibit E.

¹¹ *Id.* at 4.

assertion, however, the RFP issued in conjunction with Form 470 specifically stated that Pinellas *would* consider equivalent products. The terms of the RFP made clear that any reference to a specific manufacturer's products were "intended to establish a quality and performance standard only."¹² The solicitation also provided that any such references were made without any "intent to exclude other manufacturers' products from consideration."¹³

Not only did Pinellas make clear that it would consider alternate products, it included instructions to potential bidders wishing to submit alternate products. The solicitation instructed potential bidders to clearly state in their bid that the item proposed is an alternate to that specified in the RFP. Pinellas also specified what information was required in order to propose alternate products, adding that "[a]ny item bid as an alternate which lacks sufficient descriptive literature or technical information to enable a complete comparative analysis, may prevent its consideration."¹⁴

On the Form 470 itself, Pinellas indicated that an RFP providing additional detail was available, and it provided the bid number and web address to the solicitation. Pinellas also specified on the form that interested bidders should see the RFP for full details. The terms of the RFP, together with the information provided on the Form 470, made clear that Pinellas would consider equivalent makes.

C. USAC'S misinterpretation of criteria in the RFP led to its COMAD determination.

USAC's COMAD determination was based, at least in part, on its misunderstanding or misinterpretation of criteria in the RFP. Pinellas included the following language under the "Administrative Criteria" section of the solicitation:

All bidders should provide the following submittals along with your proposal or your bid could be declared nonresponsive: . . . Proof that bidder is an authorized Juniper, Aruba, or Cisco wireless Reseller in good standing.

In the Commitment Adjustment letter, USAC cited this language and found that "a bidder could be considered non-responsive if they are not an authorized reseller of Juniper, Aruba, or Cisco equipment."¹⁵

This criteria was intended to establish that prospective bidders must be qualified; it was not intended to limit which vendors could submit bids. The language was intentionally included in the RFP to make clear that any interested bidder would have to prove they are knowledgeable and trained in the installation and support of the equipment proposed. As Pinellas explained in its response to the Selective Review, bidders would have been asked to provide this documentation irrespective of the equipment proposed.

III. RELIEF SOUGHT

For the foregoing reasons, Pinellas respectfully requests that USAC (1) reverse the Commitment Adjustment determination and (2) discontinue recovery actions against Pinellas pending final resolution of the matter.

¹² RFP at 3.

¹³ *Id* at 3.

¹⁴ RFP at 3.

¹⁵ *Supra* note 12, at 4.

Respectfully submitted *on behalf of*
Pinellas County Schools

By: /s/ Catherine Cruzan
Catherine Cruzan
President

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cc: David Galvin
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Pinellas County Schools^{TIS} Technology and Information Systems (TIS)